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Region 2 News

[EPA takes closer look at Superfund groundwater cleanup near Wanaque Reservoir](#) (NEW JERSEY RECORD; April 1, 2019)

A dangerous chemical lurking in the groundwater just a mile from the Wanaque Reservoir has federal officials asking for further analysis of treatment options at the Ford Superfund site.

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[States, experts say EPA role on chemicals crucial](#) (GO ERIE; April 1, 2019)

States and legal experts say EPA regulations on PFAS chemicals are crucial to protect public health and compel the cleanup of pollution. That's particularly the case where the Department of Defense is the polluter, attorneys said.

[These 2 toxic chemicals are widespread in N.J. Now the state is making strict rules to deal with them.](#) (NJ ADVANCE MEDIA; April 1, 2019)

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New Jersey is set to create new drinking water standards for two chemicals that have been linked to cancer and are found in water systems across the Garden State.

[Sierra Club: DEP's PFOAs and PFOS standards moving forward](#) (INSIDE NJ; April 1, 2019)

Today the DEP released a notice of rule proposal to amend the New Jersey Drinking Water Act (SDWA) rules at N.J.A.C. 7:10 to establish, as recommended by the New Jersey Drinking Water Quality Institute (Institute), a maximum contaminant level (MCL) for perfluorooctanoic acid (PFOA) of 0.014 micrograms per liter (µg/l) and an MCL for perfluorooctanesulfonic acid (PFOS) of 0.013 µg/l.

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[New Yorkers Say They Want to Save the Environment \(but They Also Love Their Plastic Bags\)](#) (NEW YORK TIMES; March 31, 2019)

Francis Smith, an 83-year-old resident of East Harlem, stood at the end of a checkout counter at a local supermarket on Saturday, pulled out several plastic bags from her hand cart and began bagging her items.

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[The Michigan Daily: Whitmer establishes PFAS regulation policy, developing water standards, Action Response Team](#)

[NRDC: Michigan Should Set Precedent-Setting PFAS Water Standards](#)

[Philly.com: New Jersey moves to enact tougher drinking water standards for PFAS](#)

[Water Online: Water Recycling To Receive Federal Investment In New Action Plan](#)

FULL Articles

Region 2 News

NORTH JERSEY RECORD

[EPA takes closer look at Superfund groundwater cleanup near Wanaque Reservoir](#)

By David M. Zimmer

April 1, 2019

A dangerous chemical lurking in the groundwater just a mile from the Wanaque Reservoir has federal officials asking for further analysis of treatment options at the Ford Superfund site.

The chemical, a likely carcinogen known as [1,4-dioxane, was discovered in 2013 in groundwater and streams at the Superfund site.](#) Located off Peters Mine Road, the site drains to the Wanaque Reservoir, which supplies drinking water to as many as 3.5 million people.

Options for managing the pollution recently pitched by Cornerstone Environmental on behalf of polluter Ford Motor Co. included natural attenuation and chemical injections to enhance biodegradation. Pumping and treating the water, as recommended by the North Jersey District Water Supply Commission, which operates the Wanaque Reservoir, was not considered for further evaluation by Cornerstone.

However, the commission's continued recommendation of a more active cleanup plan affirmed earlier this month is under review, said Elias Rodriguez, an Environmental Protection Agency spokesman. Changes based on those recommendations, if warranted, would be addressed in a revised report, Rodriguez said.

"EPA is currently evaluating the North Jersey District Water Supply Commission's comments, including the request for evaluation of additional remedial options," he said.

The site, a Ford Motor Co. dumping ground for industrial waste 50 years ago, is polluted with heavy metals and other chemicals. [Nearby residents say the pollution has sickened them with kidney ailments, cancers and other conditions.](#)



Work area at the bottom of "'Sludge Hill'" off of VanDunk Road and Petzold Avenue in Ringwood. Superfund site cleanup work at the end of Peters Mine Road and on "'Sludge Hill'" in Ringwood. (Photo: Beth Balbierz/NorthJersey.com)

Those residents and others, including some local officials, are pushing for the removal of contaminated soil at the town-owned landfill on the 500-acre site that stretches into Ringwood State Park.

Plans approved by the borough should see the pollution consolidated and covered with a permeable barrier and a soil cap. Ford has agreed to place a new recycling center on top. There is, however, a new pitch supported by the site's Community Advisory Group to build a solar farm there instead.

Opponents of the projects argue that the soil, laced with benzene, lead and arsenic, should be removed due in part to the proximity to homes and the reservoir system. Still, Cornerstone's March report said models generated using reservoir reports determined no risk of site contaminants, most notably 1,4-dioxane, reaching the Wanaque Reservoir in any measurable quantity.

“There is no risk of migration (of contaminants of concern) to any downgradient receptor, including the Wanaque Reservoir or the borough’s public water supply wells,” the report states.

EPA officials have supported that stance at recent public meetings with the Community Advisory Group. The recent response from commission consultant Jacobs Engineering, however, disagreed. It called for a more intensive surface water sampling program to examine contaminant concentrations at varying conditions, saying there is a risk of 1,4-dioxane being detected in Ringwood Creek at the discharge point into Wanaque Reservoir.

Jacobs has also called for a system to pump contaminated groundwater to the surface for decontamination, as 1,4-dioxane can be difficult to filter.

After a detection, “pressure from the public could lead to the loss of a major drinking water source for 3 million people,” the response states.

A source for the 1,4-dioxane on the site has yet to be discovered. The clear, flammable solvent used to make dyes, greases and paint strippers has not been detected in the reservoir. It was, however, first found in spring 2015 in water in the air shaft of Peters Mine.

That mine and the town-owned landfill are two of the three main areas Ford used to dispose of unwanted waste from its Mahwah factory in the late 1960s and early 1970s.

Levels more than 200 times the state safety standard of 0.4 micrograms per liter have been found on the site. The chemical has also been discovered downgradient in surface waters, such as Sally’s Pond.

A 40-page report from Jacobs released last year said the threat of 1,4-dioxane reaching the reservoir’s intake was low. Still, it noted that the effect on water quality could have a considerable impact. The chemical has yet to be detected in the reservoir. It has, however, been found in drinking water systems in Pompton Lakes, Oakland and Garfield.

GO ERIE

[States, experts say EPA role on chemicals crucial](#)

By Jenny Wagner

By Kyle Bagenstose

April 1, 2019

States and legal experts say EPA regulations on PFAS chemicals are crucial to protect public health and compel the cleanup of pollution. That’s particularly the case where the Department of Defense is the polluter, attorneys said.

Even as states across the country work to address toxic per- and polyfluorinated substances (PFAS) by creating their own drinking water protections, legal experts and regulators say the U.S.

Environmental Protection Agency plays a crucial role. The dynamic is particularly important where the military is the polluter, since the EPA also holds federal authority.

“Failure to address PFAS at a national level will really put public health at risk,” said Lisa Daniels, director of the Pennsylvania Department of Environmental Protection’s Bureau of Safe Drinking

Water, at a public meeting last year. “EPA must take a leadership role.”

In February, EPA Administrator Andrew Wheeler visited Philadelphia to announce a PFAS Action Plan, which included an “intention” to set a federal drinking water standard for PFOS and PFOA. Wheeler also revealed a proposal to declare the chemicals hazardous substances under the federal Superfund law and touted a scheduled release of groundwater cleanup recommendations.

But the plan received a lukewarm reception from several states, which felt it lacked hard commitments or deadlines. Immediately following the Feb. 14 announcement, Pennsylvania became the latest state to say it would set its own standards, with a spokesman declaring the state “cannot wait” for the EPA.

Several attorneys said listing PFAS as hazardous substances under Superfund, the nation’s primary law governing areas of major chemical contamination, would help most in pursuing cleanup actions.

“We have sued under (Superfund). We believe it’s a hazardous substance, but you don’t see it on the list,” attorney Alan Knauf said of his efforts in representing Newburgh, New York, in a lawsuit against the military over clean drinking water. “If it were put on the federal list, that would tremendously help us.”

Heather Babb, a Department of Defense spokeswoman, said the department also supports federal regulation.

“DOD supports EPA establishing regulatory standards and a consistent cleanup approach for PFOS/PFOA based on (Superfund),” Babb wrote in an email. “We want a standard risk-based cleanup approach that is based on science and applies to everyone.”

Some attorneys say they think the EPA already has authorities it could use more aggressively.

Tim Bergère, an environmental attorney with Philadelphia’s Montgomery McCracken Walker & Rhoads, pointed out that the EPA previously used an “imminent and substantial” endangerment clause under the Safe Drinking Water Act to compel the military to act on PFAS at the Naval Air Warfare Center Warminster and Horsham Air Guard Station. The EPA has issued eight such orders for PFAS nationwide.

Bergère added that many states have laws that are more stringent than federal standards and aren’t limited by sovereign immunity, such as a Clean Streams Law in Pennsylvania that he said could be used to force the cleanup of PFAS around the bases in Bucks and Montgomery counties.

“The Navy’s sovereign immunity ... does not extend to discharges once they move off the site,” Bergère said.

Other attorneys said states can generally use powers delegated by the EPA to force actions by polluters, including through the issuance of water discharge permits under the federal Clean Water Act and the oversight of hazardous waste removal.

“Since the feds are not doing anything, the states have the authority and, we think, frankly, the obligation to step into the vacuum,” said Erik Olson, a senior director at the Natural Resources Defense Council.

But recent Department of Defense actions to challenge state regulations underscore the pitfalls of states taking the lead. In New Mexico, regulators sought to force the Air Force to clean up PFAS using a federally delegated hazardous waste authority. The Air Force responded by arguing in court that the state incorrectly applied the law.

Adam Sowatzka, an attorney with the Atlanta-based firm King & Spalding and a former EPA lawyer, said federal regulations are needed to ensure a strong legal case. Without such standards, even the EPA has to go to great lengths to make an effective argument while using emergency powers, he said.

“If you look at what EPA has to do, and all the administrative hurdles, and the case it needs to develop to bring an imminent and substantial endangerment (order), it’s a very, very difficult task,” Sowatzka said.

A new state battleground could be opening soon, as the New Jersey Department of Environmental Protection is on track to institute drinking water standards of 13 parts per trillion (ppt) for PFOS and 14 ppt for PFOA within a year. Those levels would be the strictest in the nation, and a fraction of the EPA’s 70-ppt advisory for drinking water.

Under New Jersey law, the levels also would become groundwater standards, and spokesman Larry Hajna said his department believes the military would have to comply while cleaning up sites like Joint Base McGuire-Dix-Lakehurst.

However, there are signs of potential issues. In 2018, the U.S. Air Force commented on a DEP standard for a chemical cousin, perfluorononanoic acid, or PFNA, questioning its legitimacy.

“Standards based on poor scientific methodologies are often the subject of litigation because they are arbitrary,” the Air Force wrote.

There is no evidence the Air Force acted on the warning, but PFOS and PFOA present much greater liabilities than PFNA, which was not a major ingredient in firefighting foams. New Jersey also recently implemented interim groundwater standards of 10 ppt for PFOS and PFOA, and a spokesperson said the state expects the Air Force to comply. An Air Force spokesperson said the agency is still reviewing the standard.

Environmental attorneys said there also is room for legal jousting as the military decides to what extent, and how quickly, it will clean PFAS from the environment. That’s because while the EPA typically has broad authority to drive cleanup at contaminated sites, federal law puts the Department of Defense in the driver’s seat at military bases.

“Fundamentally, EPA and DOD are part of the ‘unitary executive,’ meaning EPA can’t take DOD to court and so doesn’t have the same leverage as it would at a private site,” said Taly Jolish, a recently retired Superfund attorney for the EPA in California.

In several cases where states have created their own environmental standards, the military has said it will consider the limits as “ARARs.” Short for Applicable or Relevant and Appropriate Requirements, the acronym refers to a process under the federal Superfund law that determines to what level a polluter must clean up a chemical in water or soil.

Several attorneys agreed that the EPA or state regulators typically have authority in selecting an ARAR level for an unregulated chemical at a contaminated site. While some experts said regulators still have to sign off on such decisions at military bases, those with experience in the area said disagreements get messy.

“It becomes basically a political knife fight between DOD and EPA,” Olson said.

Jolish also said such decisions are “very political determinations.”

Tensions between the EPA and military apparently already exist. On March 13, U.S. Sen. Tom Carper, D-Delaware, authored a letter in which he cited sources saying the military and other federal agencies were pressuring the EPA to relax draft groundwater cleanup recommendations from 70 ppt to 400 ppt. The numbers have not yet been released publicly, and Carper urged the EPA to resist the alleged pressure.

“Such levels would, among other consequences, subject fewer sites that were contaminated through the military’s use of PFOA/PFOS from having to be remediated in the first place,” Carper wrote.

Further complicating matters is that the EPA has even less authority to control how long it takes the military to make cleanup decisions, experts said. The issue is playing out at bases across the country, where the military has spent years studying the extent of the PFAS contamination but has done far less to actually remove the chemicals. Officials have commonly cited the need to do more studies before they reach the point of selecting an ARAR.

“I suspect the cause of delay at the federal level is the concern that the Department of Defense is going to have to spend hundreds of millions, and maybe even billions of dollars, responding to these PFOS sites,” said David Engel, an environmental attorney litigating PFAS in New York.

Maureen Sullivan, a deputy assistant secretary for the environment at the Department of Defense, suggested in an early March congressional hearing that the department is holding off on containing PFAS releases until it further studies the issue. She also gave a “back of the envelope” estimate of needing \$2 billion for PFAS cleanup.

“Right now, we’re trying to determine the extent of the presence in the groundwater around our bases, how far it is, where it’s flowing, so we can design the right system to contain it,” Sullivan said.

Babb, the DOD spokeswoman, said the department “has proactively addressed PFOS and PFOA and follows the federal cleanup law.”

“DOD’s priority is to quickly address PFOS and PFOA in drinking water from DOD activities,” she added.

The military also is pushing about \$60 million into research on methods to better detect, understand and filter PFAS chemicals, with many studies not due until 2021. Jennifer Field, an Oregon State University PFAS expert whose work has been funded by the military, said there are about 50 ongoing projects, many of them looking for novel and cost-effective ways of destroying PFAS.

“There are definitely some higher-energy processes that look promising, but the problem is practical aspects have to be worked out,” Field said. “I haven’t heard of the stunning breakthrough that’s going to revolutionize (cleanup). Not yet.”

But Engel thinks the military can already act more robustly with current technologies, citing its \$700 billion annual budget.

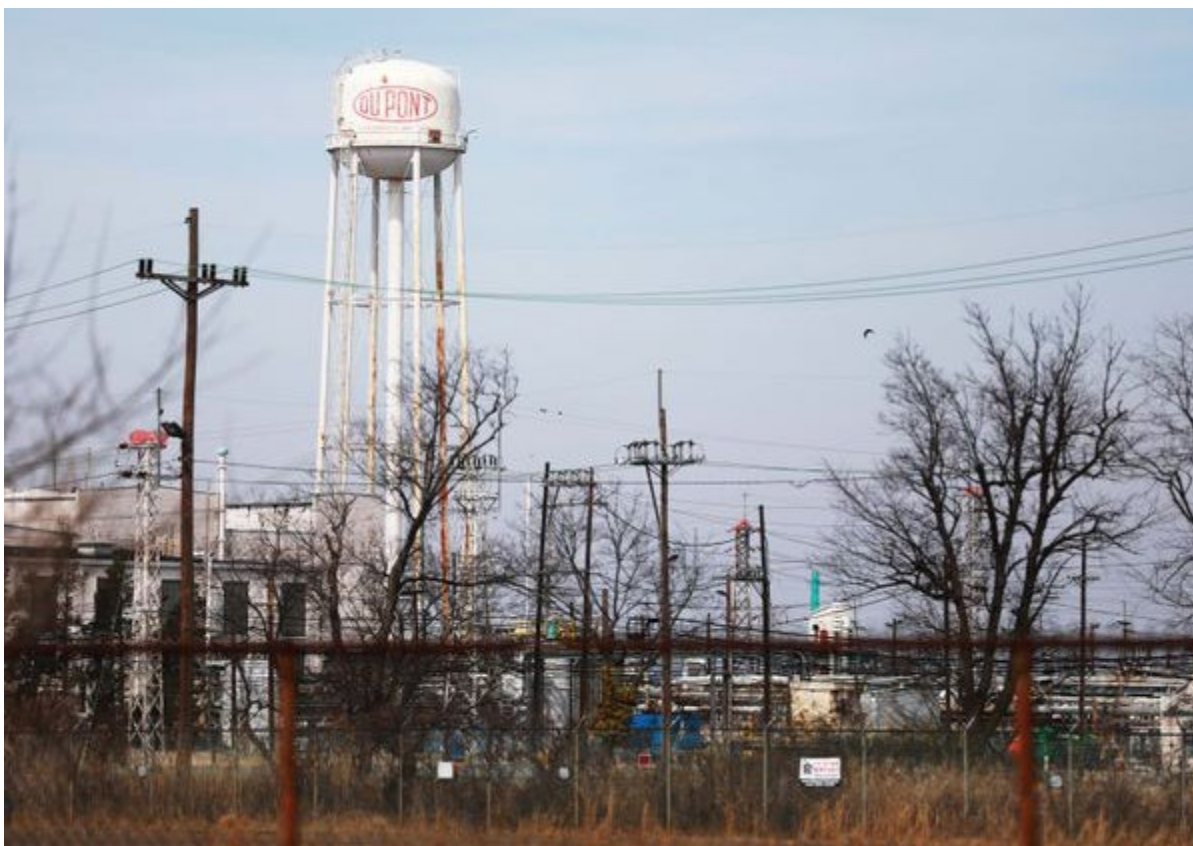
“Let’s say it’s a \$10 billion (liability). My response is, ‘So what?’ ” Engel said. “If the purpose of the Department of Defense is to defend the United States and the people living in it, you would think that a good thing for them to do would be to defend the people who are drinking water contaminated by these facilities.”

NJ ADVANCE MEDIA

[These 2 toxic chemicals are widespread in N.J. Now the state is making strict rules to deal with them.](#)

By Michael Sol Warren

April 1, 2019



This is Pennsville Site, Canal Road and Route 130, Pennsville, N.J. on Wednesday, March 20, 2019. This site is just one source of PFAS contamination in the state. (Office of the Attorney General/Tim Larsen)

New Jersey is set to create new drinking water standards for two chemicals that have been linked to cancer and are found in water systems across the Garden State.

On Monday, the New Jersey Department of Environmental Protection announced a proposal to set standards for two members of the “PFAS” family of chemicals (short for polyfluoroalkyl and perfluoroalkyl substances). The chemicals being regulated are perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS).

It’s a move that was praised by environmental groups, who have spent years pushing the state to take action on PFAS chemicals.

“It’s a good day for all of New Jersey,” said Tracy Carluccio, the deputy director of the Delaware Riverkeeper network. Carluccio called the state’s proposal “historic.”

There are thousands of chemicals in the PFAS family, but PFOA and PFOS are among the most studied and best understood. The chemicals, which are used for products ranging from nonstick cookware to firefighting foam, have been linked to cancer and other health effects, according to the Centers for Disease Control and Prevention.

Under the proposed rules, drinking water systems in the state would have to keep PFOA levels below

14 parts per trillion and PFOS levels below 13 parts per trillion.

Besides setting drinking water standards, the proposal would require drinking water systems of all sizes in New Jersey to monitor for the chemicals, and private wells would also have to be tested.

Now that the PFOA and PFOS proposal have been submitted, a public hearing will be held in Trenton on May 15 and public comment will be accepted until May 31.

Drinking water systems across the state, particularly in industrial areas and places near military bases, are affected by PFAS chemicals. Millions of people in New Jersey are threatened by contamination from PFOA and PFOS, according to Carluccio.

"PFOA and PFOS are threatening New Jersey's population through the water we drink every day, and it's also escaped into the environment at levels that have created a statewide crisis," Carluccio said.

The new standards would be a big change for drinking water systems in New Jersey, most of which are not currently capable of treating PFAS chemicals.

NJDEP Commissioner Catherine McCabe recently told NJ Advance Media that the needed upgrades could cost hundreds of millions of dollars.

This is not the first time that the NJDEP has made rules for a PFAS chemical. In September, New Jersey became the first state in the nation to set drinking water standards for perfluorononanoic acid (PFNA).

This chemical has been polluting N.J. for decades. Now, 5 companies have to pay big to clean it up.

As concern over PFAS builds around the country, New Jersey isn't waiting for the federal government to take action.

Last week, the NJDEP began cracking down on five major companies that are known to have spilled PFAS chemicals in the state and contaminated drinking water systems. A new directive issued by the state holds those polluters financially responsible for cleaning up their mess.

Later that week, New Jersey Attorney General Gurbir Grewal announced four lawsuits on behalf of the NJDEP seeking millions of dollars from two of those companies -- DuPont and 3M -- for PFAS contamination at four sites across the state.

New Jersey's efforts to deal with PFAS chemicals far outpaces steps taken by the federal government. In February, the U.S. Environmental Protection Agency unveiled a nationwide action plan for the problem but stopped short of setting a national drinking water standard for PFAS chemicals.

"New Jersey has to make its own standards for harmful chemicals in our water because we can't trust the federal government to make stronger enough ones to protect our communities," said Jeff

Tittel, the director of the New Jersey Sierra Club.

INSIDE NJ

[Sierra Club: DEP's PFOAs and PFOS standards moving forward](#)

April 1, 2019

DEP's PFOAs and PFOS standards moving forward

Today the DEP released a notice of rule proposal to amend the New Jersey Drinking Water Act (SDWA) rules at N.J.A.C. 7:10 to establish, as recommended by the New Jersey Drinking Water Quality Institute (Institute), a maximum contaminant level (MCL) for perfluorooctanoic acid (PFOA) of 0.014 micrograms per liter ($\mu\text{g/l}$) and an MCL for perfluorooctanesulfonic acid (PFOS) of 0.013 $\mu\text{g/l}$. In addition, the Department is proposing to amend the Ground Water Quality Standards at N.J.A.C. 7:9C to establish a specific ground water quality standard for PFOA of 0.014 $\mu\text{g/l}$ and a specific ground water quality standard for PFOS of 0.013 $\mu\text{g/l}$.

"DEP's rule proposal in today's register is the first major step towards making stricter standards for PFOAs and PFOS a reality. We waited 9 years for this day to finally happen and it is here. This is critical for protecting our drinking and groundwater. Standards for PFOS in our drinking water and groundwater will be 13ppt and PFOAs at 14ppt. These chemicals are associated with serious health risks where at repeated exposure can lead to development defects, liver and kidney problems and even tumors. New Jersey will soon have the toughest standard in the nation. said Jeff Tittel, Director of the New Jersey Sierra Club. "Now the DEP need to adopt these standards as soon as possible. The sooner we do, the quicker we can start removing toxic chemicals from our drinking water and cleaning up toxic sites."

The proposal includes monitoring requirements for PFOA and PFOS for public community and public nontransient noncommunity water systems. Further, the Department proposes to amend the Private Well Testing Act rules at N.J.A.C. 7:9E to require testing of private wells subject to sale or lease for perfluorononanoic acid (PFNA), PFOA, and PFOS and to amend the SDWA rules to require testing of newly constructed wells for public noncommunity water systems and nonpublic water systems for PFNA, PFOA, and PFOS.

"Major polluter like DuPont will have to abide by these standards once adopted. It will apply to Joint Base McGuire-Dix Lakehurst. The standard will be required by the Department of Defense to clean up the contamination there. PFOS was found at the base and the surrounding areas in Burlington County. In Salem and Gloucester County, PFOs found near the Solvay site were seven times over standard. We have even found PFOS in our fish, even from the most pristine areas," said Tittel. "Repeated exposure to PFOS can lead to development defects in children and pregnant women, liver and kidney problems, and even tumors."

New Jersey's standard for PFOAs and PFOs will be the strongest in the nation. More importantly it

will protect this state's drinking water from the lack of action of the federal government to do so. The Trump Administration decided not to set a drinking water limit for two toxic chemicals known as PFOA and PFOS. This means there will be no federal requirements for utilities for testing or removing the chemicals from drinking water supplies.

"New Jersey has to make its own standards for harmful chemicals in our water because we can't trust the federal government to make stronger enough ones to protect our communities. We would like to see the standard at 5ppt, but 13-14ppt is still the strictest in the nation. We thank the Murphy Administration and DEP for proposing stricter standards for PFOAS and PFOS. It is critical that we move forward in adopting them. DEP must set stricter standards for the more than a dozen chemicals found in our waterways. It's too important for our health and the environment," **said Jeff Tittel, Director of the New Jersey Sierra Club.**

A public hearing(s) concerning the proposal is scheduled as follows:

Wednesday, May 15, 2019 2:00 P.M.

Department of Environmental Protection

401 East State Street

Trenton, NJ 08625

THE NEW YORK TIMES

[**New Yorkers Say They Want to Save the Environment \(but They Also Love Their Plastic Bags\)**](#)

By Derek M. Norman

March 31, 2019

Francis Smith, an 83-year-old resident of East Harlem, stood at the end of a checkout counter at a local supermarket on Saturday, pulled out several plastic bags from her hand cart and began bagging her items.

A store employee helped her stuff paper towels into a worn, white plastic bag from Target that she had brought from home.

"I always carry extra plastic bags and never throw them away or waste any," said Ms. Smith. "I understand that they do harm to the environment, but these 'single-use' bags can be used a lot."

Her reaction, and many like it, came after New York lawmakers agreed last week to impose a statewide ban on single-use plastic bags from most retail sales. The plan was included in the state's

\$175 billion budget that was announced early Sunday.

Gov. Andrew M. Cuomo first proposed the ban, which could begin as early as next March, a year ago. New York is now the second state to impose such a rule; California banned plastic bags in 2016. Hawaii effectively has a statewide ban since all counties in the state bar the use of plastic bags.

New York's ban allows for several exceptions, like wrapped deli meat, restaurant takeout bags and plastic garbage bags. The bill also allows counties to charge an optional 5-cent fee for customers who want brown paper bags, which has caused environmentalists to worry that reusable bags would become a less popular option.

Still, many city residents in lower-income neighborhoods, while appreciative of the environmental considerations, appeared wary about how the ban would impact their daily routines. One frequent question: Who would really bear the brunt of the legislation?

To save money, many people said their families reused plastic bags as trash or recycling bags, or used them to bring lunch to work.

"I know this neighborhood is going through a change, but there's still a lot of people here who can't afford to take on more, and it's a luxury to have the choice," said Ms. Smith, who has lived in East Harlem for more than 60 years.

"Sometimes politicians mean well," she added. "But unless they live in this type of community they wouldn't know how a change like this could feel."

In January 2018, Suffolk County on Long Island began charging shoppers 5 cents per plastic bag, and usage dropped. In the first year of the added fee, grocery stores reported an 80 percent decrease in the distribution of single-use bags.

Residents were forced to change their habits. Will city residents adjust as easily?

On the Lower East Side, Tony Strong, 51, stood against a fence in front of the La Guardia Houses, chatting with a friend, with two carts packed with bagged items and extra plastic bags beside them.

"People in this city might be upset for the first month, but hey, it's the rules and they'll get used to it," said Erdal Ozcan, 30, a street vendor.

"We like to keep our plastic bags in our cubby cabinet and when we need to carry something, we reuse them," he said as he pulled several used plastic bags out of his hand cart.

"I actually think they should keep them," he said of the state's ban. "But our government sometimes just doesn't give us the choice. They do it, and we just have to adjust."

A manager of a bodega above the Kingston Avenue subway station in Brooklyn said using less plastic would be better for the city and that the store even tried selling reusable totes in the past, to no

avail.

One resident of Manhattan's Chinatown said she loved the ban, but predicted that her neighborhood would have a difficult time adjusting. Plastic bags, she said, are so prevalent in Chinatown that they were almost iconic.

Michael King, 44, wheeled a shopping cart out of a Foodtown grocery store in Bedford-Stuyvesant in Brooklyn and then, one by one, lifted several plastic bags with the handles wrapped tightly around his fingers — three bags to a hand.

Mr. King thought the plan seemed designed to “change grocery shopping culture” by steering it to online grocers.

“You’re actually dictating how I shop if I have to bring a bag with me,” Mr. King said. “See me, I’ve got one, two, three — five, six bags. So you’re telling me I have to leave my house with 20 bags if it’s Thanksgiving time?”

The only beneficiaries, Mr. King said, would be big web-based retail delivery services like Amazon and FreshDirect. “They’re ready,” he said.

A fruit vendor on the Upper East Side, who supports the ban, said plastic bags should have been banned years ago. New Yorkers, he said, have become overly reliant on them.

“It’s embedded in them psychologically,” said Erdal Ozcan, 30, who lives in New Jersey but sets up his fruit stand on the corner of 86th Street and Second Avenue. “One box of blueberries, they want one bag. One cherry tomato, boom, one bag.

“People in this city might be upset for the first month, but hey, it’s the rules and they’ll get used to it,” he added, instinctively yanking a plastic white bag off a hook each time a customer purchased an item. “Yeah, the people here won’t like it, but who cares? It’s not for the people. It’s for the future, for the environment.”

Many New Yorkers understood that the bill was intended to improve environmental sustainability.

On 125th Street in Harlem, Nana Yaw, a 57-year-old sidewalk vendor from Ghana, was setting up his table with African jewelry, trinkets and statuettes. According to Mr. Yaw, in order to be more environmentally conscious, he has used paper bags for years.

“It’s important for the vendors to be into this, too — that’s how this part of the industry will change,” he said. “And as for the customers, as long as you give them something to carry their things, they will take it.”

NATIONAL

Administration

E&E News

Pete Buttigieg is having a moment. Here's his climate record

<https://www.eenews.net/climatewire/stories/1060137809/search?keyword=EPA>

Maxine Joeslow

Posted: April 1, 2019

When the Trump EPA scrubbed climate change data from its website, Pete Buttigieg took swift action.

The Democratic presidential hopeful, who currently serves as the mayor of South Bend, Ind., promptly hosted an archived version of the webpages on the city's website.

"Since the administration has suppressed the presentation of climate change data on the EPA website, the City of South Bend will host an archive of the site on our own servers," Buttigieg said in a June 2017 [Facebook post](#). "Thanks to the City of Chicago for leading the way on keeping this information available."

Since then, Buttigieg — pronounced "BOO-tuh-juhj" — has gained national attention as a rising star in the Democratic Party with an impressive bio and a fresh perspective on climate change.

At 37 years old, Buttigieg is the youngest candidate to have entered the race so far. He would also be the first openly gay president; his husband, Chasten Buttigieg, is a humanities and drama teacher in Indiana.

After graduating from Harvard University, Buttigieg was a Rhodes Scholar at Oxford University before serving in Afghanistan for seven months as a lieutenant in the Navy Reserve.

An avid linguaphile, Buttigieg is fluent in seven languages besides English. He reportedly learned Norwegian just to read books by author Erlend Loe in their original form.

Buttigieg supports upholding the goals of the Paris Agreement despite President Trump's intent to withdraw. That doesn't distinguish him much from the crowded Democratic primary field, as other candidates have expressed broad support for the climate pact.

Yet Buttigieg drew the attention of national climate hawks last week by signing the No Fossil Fuel Money pledge, vowing "to not take contributions from the oil, gas, and coal industry and instead prioritize the health of our families, climate and democracy over fossil fuel industry profits."

The pledge has divided Democrats, many of whom still rely on large contributions from oil, gas and coal companies ([E&E Daily](#), Jan. 30).

So far, just over half of the crowded Democratic primary field has signed the pledge. That includes Sens. Elizabeth Warren of Massachusetts, Kirsten Gillibrand of New York and Bernie Sanders of Vermont, an independent who caucuses with Democrats.

Those who have opted against taking the pledge include Democratic Sens. Amy Klobuchar of Minnesota, Cory Booker of New Jersey and Kamala Harris of California, as well as former

Colorado Gov. John Hickenlooper. No Republicans have made the commitment.

RL Miller, co-founder of the Climate Hawks Vote political action committee, said signing the pledge put Buttigieg in the "top tier" of Democratic presidential candidates.

"We have 20 presidential candidates or thereabouts. And we have eight that have signed and 11 that could sign eventually and only one or two who just won't," Miller said. "Obviously, that places him in the top tier. But he's not alone in it."

Marjorie Hershey, a professor of political science at Indiana University, Bloomington, said Buttigieg's decision to sign the pledge could help him win the support of younger voters who distrust large fossil fuel corporations.

"What Buttigieg has done so far is to make a very strong point about his refusal to take campaign contributions from fossil fuel industries," Hershey said. "And that brings in the possibility of support from those voters who just don't like special-interest money and who don't like the oil companies. So it's a way for him to take a stand on climate change that brings in a group of supporters."

Clean car rules, Superfund

Buttigieg has also distinguished himself by speaking out against the Trump administration's rollback of Obama-era clean car rules.

In April 2018, he signed a [declaration](#) from dozens of attorneys general and mayors opposing the rollback because it would increase greenhouse gas emissions and air pollution.

"Such standards are particularly appropriate given the serious public health impacts of air pollution in our cities and states and the severe impacts posed by climate change, including recent storms, droughts, floods and fires that have hit multiple regions of the U.S. in just the past few years," the declaration said.

Asked for comment, Buttigieg campaign spokeswoman Lis Smith said the mayor's "position has not changed." She didn't respond to a follow-up request to interview Buttigieg.

As mayor of a small city in the Midwest, Buttigieg has also taken action on environmental issues directly affecting residents. That sets him apart from the many Senate Democrats running for president who don't enjoy such close proximity to their constituents.

The city of South Bend sits on the St. Joseph River and has a population of roughly 102,000. It also has two Superfund sites.

In particular, state and federal officials have classified a site near LaSalle Park that's a former hazardous waste dump. Several industrial polluters disposed of asbestos, solvents, oils and arsenic-contaminated sand at the site from the 1930s to the mid-1950s, [according](#) to EPA. In 2013, Buttigieg wrote a letter to EPA asking the agency to engage more with residents on the site. It took four years, but EPA finally sent nine staffers to South Bend in 2017 to inform residents that the park was safe for recreational use, the *South Bend Tribune* [reported](#).

Under a mandate from the Centers for Disease Control and Prevention, the EPA staffers asked the residents for permission to test soil near the park, the newspaper reported. Buttigieg did

not attend the meeting, though he sent several staffers in his stead.

Asked for comment, an EPA Region 5 spokeswoman said in an email that the agency has "worked closely" with Buttigieg and the city of South Bend to address contamination at the site.

Buttigieg is still a long-shot candidate, **polling** at roughly 4 percent of Democrats and Democratic-leaning registered voters, according to Quinnipiac University.

He delivered a speech in San Francisco last week and impressed many progressive Democrats, said Miller of Climate Hawks Vote. That was notable because San Francisco is Harris' home turf.

But it remains to be seen whether Buttigieg can garner the national name recognition necessary to become a leading candidate, Miller said, citing his lack of experience in the governor's office or on Capitol Hill.

Hershey, the professor at Indiana University, said it's still too early for polling to provide a meaningful indicator of performance in the race.

"There's always a debate at this point in the process about what standing in the polls means at this time in the season," Hershey said. "Our research tells us that having some degree of support in the pre-primary polls this early reflects little more than name recognition."

E&E News

Wheeler, Perry and host of admin officials due on the Hill

<https://www.eenews.net/eedaily/stories/1060137501/search?keyword=EPA>

Manuel Quinones

Posted: April 1, 2019

Several hearings this week may focus on the disconnect between the White House's spending blueprint and statements from top officials and President Trump.

EPA Administrator Andrew Wheeler will make his first appearance on Capitol Hill for this latest round of budget hearings.

Wheeler will have to defend the administration's proposal to slash his agency by nearly a third, particularly tomorrow during a House panel hearing controlled by Democrats.

Last month the president talked about spending for the Great Lakes just weeks after his budget proposed to dramatically reduce cleanup efforts.

"I support the Great Lakes. Always have. They are beautiful," Trump said during remarks in Michigan.

"They are big, very deep, record deepness, right? And I'm going to get, in honor of my friends, full funding of \$300 million for the Great Lakes Restoration Initiative," he said.

Energy Secretary Rick Perry will also return to the Hill tomorrow to appear before the Senate Energy and Natural Resources Committee.

He will have to respond to questions about the administration's repeated efforts to slash technology appropriations, even as he himself has indicated his support of congressional efforts to dramatically increase such spending.

Back on the Hill, as well, will be NASA Administrator Jim Bridenstine. Lawmakers on the House Science, Space and Technology Committee may press him on climate change.

Other hearings will feature witnesses from the National Park Service, the Nuclear Regulatory Commission and Interior Department bureaus.

Schedule: The House Appropriations subcommittee hearing on the National Nuclear Security Administration is Tuesday, April 2, at 9:45 a.m. in 2362-B Rayburn.

Witnesses:

Lisa Gordon-Hagerty, administrator of NNSA.

Adm. James Caldwell, deputy administrator for NNSA's Office of Naval Reactors.

Charles Verdon, deputy administrator for defense programs at NNSA.

Brent Park, deputy administrator for defense nuclear nonproliferation at NNSA.

Schedule: The House Appropriations subcommittee hearing on the EPA budget is Tuesday, April 2, at 10 a.m. in 2359 Rayburn.

Witness: EPA Administrator Andrew Wheeler.

Schedule: The House Science, Space and Technology Committee hearing on the NASA budget is Tuesday, April 2, at 10 a.m. in 2318 Rayburn.

Witness: NASA Administrator Jim Bridenstine.

Schedule: The Senate Energy and Natural Resources Committee hearing on the DOE budget is Tuesday, April 2, at 10 a.m. in 366 Dirksen.

Witness: Energy Secretary Rick Perry.

Schedule: The Senate Environment and Public Works Committee hearing on the Nuclear Regulatory Commission is Tuesday, April 2, at 10 a.m. in 406 Dirksen.

Witnesses: TBA.

Schedule: The House Natural Resources subcommittee hearing on the National Park Service is Wednesday, April 3, at 9 a.m. in 1324 Longworth.

Witnesses: TBA.

Schedule: The House Appropriations subcommittee hearing on NPS, the Fish and Wildlife Service and the U.S. Geological Survey is Wednesday, April 3, at 1 p.m. in 2008 Rayburn.

Witnesses:

Dan Smith, NPS deputy director.

Margaret Everson, principal deputy director at FWS.

Jim Reilly, USGS director.

Schedule: The House Appropriations subcommittee hearing on science, energy and environmental management is Wednesday, April 3, at 1:45 p.m. in 2362-B Rayburn.

Witnesses:

Mark Menezes, DOE undersecretary for energy.

Paul Dabbar, DOE undersecretary for science.

Schedule: The House Appropriations subcommittee hearing on the Labor budget is Wednesday, April 3, at 2 p.m. in 2358-C Rayburn.

Witness: Labor Secretary Alex Acosta.

Schedule: The House Appropriations subcommittee hearing on the Commerce budget is Wednesday, April 3, at 2:15 p.m. in H-309 Capitol.

Witness: Commerce Secretary Wilbur Ross.

Schedule: The Senate Appropriations subcommittee hearing on the EPA budget is Wednesday, April 3, at 9 a.m. in 124 Dirksen.

Witness: Wheeler.

Schedule: The Senate Appropriations subcommittee hearing on the FEMA budget is Wednesday, April 3, at 9:30 a.m. in 138 Dirksen.

Witness: Acting FEMA Administrator Peter Gaynor.

Schedule: The Senate Appropriations subcommittee hearing on the NNSA budget is Wednesday, April 3, at 2:30 p.m. in 138 Dirksen.

Witnesses: Hagerty, Verdon, Park and Caldwell.

Schedule: The House Appropriations subcommittee hearing on Interior bureaus is Thursday, April 4, at 9:30 a.m. in 2008 Rayburn.

Witnesses:

Brian Steed, acting director, Bureau of Land Management.

Walter Cruickshank, acting director, Bureau of Ocean Energy Management.

Scott Angelle, director, Bureau of Safety and Environmental Enforcement.

Schedule: The Senate Commerce, Science and Transportation Committee hearing on maritime agencies is Thursday, April 4, at 10:30 a.m. in 562 Dirksen.

Witnesses:

Mark Buzby, administrator, Transportation Department's Maritime Administration.

Adm. Karl Schultz, commandant, Coast Guard.

E&E News

Wheeler speaks regularly with Trump's top energy advisor

<https://www.eenews.net/greenwire/stories/1060138797>

Sean Reilly

Posted: April 1, 2019

EPA Administrator Andrew Wheeler is regularly in contact with the White House's senior energy adviser, according to newly released scheduling calendars.

The calendars, released last week in response to Freedom of Information Act requests from E&E News, indicate that Wheeler and Francis Brooke spoke repeatedly on what are described as "weekly check-in" calls. The calendars run from the beginning of September through December 2018.

While the calendars also reflect similar contact between Wheeler and senior EPA staffers, Brooke appears to be the only White House official to fall in that category.

EPA and White House press staffers did not immediately reply to emailed requests for comment this morning on the purpose of the regular conversations, given that Brooke's portfolio involves energy policy, not environmental issues.

But at a minimum, they could be read as a sign of White House involvement in EPA decisionmaking. Last month, for example, Brooke reportedly facilitated a meeting with automakers aimed at enlisting their support of a proposed rollback of Obama clean car rules, a source familiar with the matter told E&E News (*[E&E News PM](#)*, March 22).

Wheeler, who started at EPA as deputy administrator, became acting chief in early July after his predecessor, Scott Pruitt, abruptly resigned. Wheeler won Senate confirmation in February to hold the job long-term. Brooke, who previously worked in Vice President Mike Pence's policy shop, took the energy post last April (*[Climatewire](#)*, April 19, 2018).

Wheeler's calendars, which had been previously released for months prior to last September, also show the two men were in regular touch.

Reporter Kevin Bogardus contributed.

PoliticoPro

Judges struggle with finality of EPA 'once in, always in' memo

<https://subscriber.politicopro.com/article/2019/04/judges-struggle-with-finality-of-epa-once-in-always-in-memo-2980407>

Alex Guillen

Posted: 2:19pm, April 1, 2019

A D.C. Circuit Court of Appeals panel today struggled to determine whether they have jurisdiction over an EPA guidance memo reversing a long-standing policy designed to maintain strict limits on air pollution from power plants, factories and other sources.

At issue is a [January 2018 memo](#) issued by EPA air chief Bill Wehrum that spared facilities from having to comply with stringent permitting requirements once their emissions of toxic pollutants fell below a certain level. Wehrum's memo reversed a [“once in, always in” guidance](#) issued in 1995 that kept the stricter “MACT” requirements in place forever.

Judges appeared conflicted on whether Wehrum’s memo is a final agency action subject to judicial review. They also questioned how revoking one or both of the memos would affect existing permitting decisions.

“The problem is it’s not final yet,” Judge Laurence Silberman said. He suggested an “as-applied” challenge to individual permitting decisions would be the proper avenue for a court to review the policy.

Judge Judith Rogers, meanwhile, noted that the D.C. Circuit has come down on both sides of whether such guidance is a final agency action but noted that in this case, EPA sent a “clear signal to sources” about their permitting liabilities.

Further complicating the case is a proposed rule on the topic from EPA that has been [under review](#) at the White House since February. A Justice Department attorney said today the proposed rulemaking should be released by June and is expected to be finalized within a year of that.

Wehrum has said the perpetual classification goes against the Clean Air Act; environmental

groups and California argued the change would lead to more pollution.

A ruling on the guidance is expected in the coming months.

PoliticoPro

Powerful coal executive edges closer to White House

<https://subscriber.politicopro.com/article/2019/03/30/coal-executive-white-house-1282376>

Zack Colman

Posted: 6:42am, March 30, 2019

Joe Craft (center) donated nearly \$8.8 million to federal candidates through 2017, and his wife Kelly Craft (left) has been nominated by President Donald Trump to become the next U.S. envoy to the United Nations. AP Photo/Alex Brandon

Joe Craft, the chief executive of one of the nation's biggest coal companies and a major Republican bank roller, is on the verge of moving even closer into the White House inner circle.

President Donald Trump proposed in February that Craft's wife, Ambassador to Canada Kelly Craft, [become the next U.S. envoy to the United Nations](#), which would give her a front-row seat to the international climate talks that have huge implications for Joe Craft's business.

As CEO of the Tulsa, Okla.-based coal empire Alliance Resource Partners, Joe Craft is already an active player in Washington when it comes to energy policy.

For example, key actors from Trump to Senate Majority Leader Mitch McConnell mounted an [unsuccessful](#) last-second public campaign to get the Tennessee Valley Authority to reverse course on shuttering a power plant Alliance supplied last month. The federal power utility determined its Paradise Unit 3 facility in Kentucky, along with the Bull Run power plant in Tennessee, was too expensive to keep running.

“He’s got a keen understanding of the legislative and regulatory process, and increasingly the energy business is intertwined with government policy,” a federal government official who knows Joe Craft said. “He knows a lot of people. A lot of people respect him and he’s a prominent figure, so I imagine he can pick up the phone and call anybody.”

McConnell recommended Kelly Craft for the U.N. position. The couple [gave \\$2 million to Trump's political efforts](#) through campaign donations and a share of his inauguration, according to OpenSecrets.org and Federal Election Commission filings.

“He’s been a longtime supporter of Republican candidates and causes,” Rep. Andy Barr (R-Ky.), to whom Joe Craft has donated, told POLITICO. “I think Joe is pretty well-known by Cabinet members, by the president, by the vice president.”

Craft's company also weighed in to [nix potential nominee](#) David Hill from joining the Federal Energy Regulatory Commission, in part because Hill criticized the administration's intent to bail out economically distressed coal and nuclear power plants. Those bailout plans have run aground due to legal concerns. FERC is now considering whether certain facilities going offline would present a problem for maintaining a steady, secure supply of electricity, as proponents of incentives for cash-strapped generators have claimed. Craft would stand to

benefit from such interventions.

Craft has also had sway at the EPA, which has been at the center of efforts to lessen the regulatory burden on coal. Craft regularly communicated with former EPA Administrator Scott Pruitt, with whom he bonded over their Kentucky roots and Oklahoma careers: Pruitt lived in Tulsa when he was the state's attorney general. The New York Times [reported](#) last June that Pruitt secured prime tickets for a college basketball game at the University of Kentucky, where Craft is a major fan and booster. (The team's practice facility bears his name.)

"He has his own transportation so he can drop in on a UK ballgame and then fly into Washington to meet with the Trump administration for breakfast the next morning," said Dave Adkisson, president of the Kentucky Chamber of Commerce, who visited the Crafts with the chamber's board of directors in Canada last October.

Joe Craft's allies describe him and his wife as humble, genuine people dedicated to philanthropic causes. They say Joe Craft cares deeply about his eastern Kentucky home region and his adopted Tulsa community.

Barr said Craft's story "is the American dream." Coming from humble beginnings in eastern Kentucky's coal-heavy Perry County, he went to University of Kentucky, then its law school, before heading into the business on which his community was built — coal. He learned the business "from the bottom up" to create "one of the most extraordinary energy companies, I would say not just in the United States, but the world," Barr said.

Craft amassed a fortune along the way and pumped some of it into educational and other endeavors in Kentucky and Oklahoma. He donated \$7.7 million to various universities and causes through his charity, the Joseph W. Craft III Foundation, according to 990 filings from 2014 through 2016. One of Craft's proudest achievements was funding the Craft Academy, a specialized STEM high school in eastern Kentucky, Adkisson said.

"He is somewhat reserved, certainly unassuming. He's not the first person in a meeting to speak up, but when he does, it's substance. He's very generous, he's quietly very generous," Adkisson said, noting Craft once on the spot pledged to match donations for a Chamber program to send principals of eastern Kentucky businesses to an executive leadership conference — a roughly \$100,000 commitment.

Craft's political giving has been less quiet and just as generous. He donated nearly \$8.8 million to federal candidates through 2017, more than \$8.5 million of which went to Republicans, according to OpenSecrets.org. Federal Election Commission filings showed he gave more than \$350,000, all to Republicans, last campaign cycle.

In 2012, the couple co-hosted an Indiana fundraiser for Romney, according to [an invitation](#) that lists other attendees as then-Rep. Mike Pence and '80s acting stars Bo Derek and Ricky Schroder. The barbecue took place at the Indiana home of businessman Steve Chancellor, [a coal executive and big game trophy hunter](#). Chancellor now sits on Trump's wildlife conservation council and lobbied Pruitt to soften pollution rules.

Joe Craft has already benefited from a number of Trump administration policies long sought by Republicans and the coal industry. Chiefly, it nixed the Obama administration's carbon dioxide regulations for power plants, opting for a scaled-back version instead, and announced

plans to withdraw from the Paris climate accord.

Alliance has fared well given the headwinds facing the coal industry, said Joe Aldina, a coal analyst at S&P Global Platts Analytics. Alliance has weathered slumps in the coal market better than its competitors. When others made risky acquisitions, Craft stayed pat; when they filed for bankruptcy, he stayed afloat.

“Alliance is a big success story in the coal markets; he’s got a ton of money, he’s politically connected and all that. It’s hard to infer what his political influence might be,” said Aldina, who said he didn’t have any particular insight in the Trump administration’s inner sanctum. “I think Alliance is a well-run company overall, which has made Joe Craft a lot of money and given him some influence.”

Alexander Panetta contributed to this report.

USA Today

A brief history of President Trump's environmental record. (Hint: It's long and troubling)

<https://www.usatoday.com/story/opinion/2019/03/30/donald-trump-environmental-record-regulation-green-column/3309966002/>

Eve Samples, Treasure Coast Newspaper

Posted: 5:00am, March 30, 2019

Trump's approach to environmental policy is all about pulling the teeth out of regulations. Gabbing about restoring the Everglades won't change that.

Before he died last year, Nathaniel Reed offered some advice to President Donald Trump: "America does not want to go back to an era of dirty water and dirty air."

To avoid that fate, [Reed told me in a 2017 interview](#), the federal government needs laws with teeth.

"Enforcement is a tool that must be in the presidential quiver," he said. "You have to enforce environmental laws, you have to — or they're negated, ignored."

Reed knew something about advising Republican presidents. He served Richard Nixon and Gerald Ford as assistant secretary of the Department of Interior. He helped write the Clean Water Act and Endangered Species Act.

Reed died last year — but that advice bears repeating now, in light of [Trump's visit Friday to Lake Okeechobee](#) in Florida to talk about Everglades funding and the Herbert Hoover Dike that encircles the giant lake.

Trump's regulation erosion

So far, Trump has defied Reed's advice. He has eroded environmental regulations — much as U.S. Sen. Rick Scott did during his eight-year tenure as Florida's governor — in the name of spurring economic growth.

But there comes a time in every shrewd politician's career when he or she realizes it's politically expedient to be an environmental advocate. [Scott positioned himself as greener than Kermit](#) during his campaign for U.S. Senate.

Gov. Ron DeSantis has [focused intensely on environmental issues](#) since taking office in January. However, one stop at Lake Okeechobee does not an environmentalist make.

This is a fitting time to reflect on Trump's broader environmental record. It's not that of a conservationist.

National Geographic is keeping [a running list of the Trump administration's environmental actions](#). Among the lowlights:

The Environmental Protection Agency is trying to [remove federal Clean Water Act protections from smaller rivers and streams](#) under the "Waters of the U.S." rule. In Florida, the change would impact some [6 million acres of wetlands](#).

EPA chief Andrew Wheeler is a former coal lobbyist who has [proposed rolling back fuel-efficiency and pollution standards for vehicles](#).

Under Trump, EPA inspections to identify pollution problems [dropped to a 10-year low](#) for facilities such as manufacturing plants, oil and gas operations and power plants.

Criminal enforcement by the EPA is at a [30-year low](#) under Trump.

The Trump administration [disbanded a scientific review panel](#) that advises the EPA about safe levels of pollution in the air.

In December, the Trump administration announced it would [lift certain restrictions on greenhouse gas emissions](#) from coal power plants.

The National Oceanic and Atmospheric Administration has given five oil and gas companies approval to use [seismic airgun blasts to search for offshore oil and gas deposits](#) from New Jersey to Florida.

The Trump administration reversed Obama-era requirements for oil and gas companies to [monitor and mitigate releases of methane](#).

Trump in 2017 [pulled the U.S. out of the Paris climate agreement](#) to curtail greenhouse gas emissions worldwide.

This is a long list, but it is far from comprehensive. Many more rollbacks of environmental rules have occurred under Trump, affecting water, climate, air and chemical regulations. I encourage you to look at [the National Geographic compilation](#) and assess them yourself.

And, to be fair, we should note a couple of environmental wins that have occurred under Trump's

watch:

In March, the president signed the [largest public-lands bill in a decade](#), creating five new national monuments and expanding several national parks. The bill [combined more than 100 separate bills](#) and had bipartisan support in Congress.

Trump signed a bill in October [reauthorizing a program to clean up marine debris](#) from the world's oceans.

These victories have been overshadowed, however, by a vast push to weaken environmental protections across the country.

Trump's visit to Lake Okeechobee won't change that. Additional funding for Everglades restoration won't change that (though it's better than cutting funding). Instead, only a sustained commitment to environmental protections "with teeth," as Reed suggested, can have a lasting positive impact on clean water and air.

Eve Samples is opinion and audience engagement editor for TCPalm/Treasure Coast Newspapers, where this column [originally appeared](#). Follow her on Twitter [@EveSamples](#).

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Air

Environmental Defense Fund

D.C. Circuit Hears Argument Today in Lawsuit Challenging EPA Loophole for Toxic Air Pollution

<https://www.edf.org/media/dc-circuit-hears-argument-today-lawsuit-challenging-epa-loophole-toxic-air-pollution>

Sharyn Stein

Posted: April 1, 2019

(Washington, D.C. – April 1, 2019) The U.S. Court of Appeals for the D.C. Circuit will hold oral argument this morning in a case about a dangerous new loophole created by then-EPA Administrator Scott Pruitt that could increase Americans' exposure to toxic air pollution. "This loophole puts communities across our country at risk of increased exposure to benzene and other dangerous or cancer-causing pollutants," said [Tomás Carbonell](#), lead attorney for Environmental Defense Fund, which is a party to the case. "The loophole was created unlawfully and violates the Clean Air Act. It should be closed immediately."

The case centers around "maximum achievable control technology" (MACT) standards for hazardous air pollutants under the Clean Air Act. These standards generally apply to large industrial facilities like refineries and chemical plants that emit high amounts of 187 dangerous or cancer-causing pollutants.

Under a long-standing policy adopted in 1995, these “major source” facilities had to comply with the MACT standards for as long as they operated. Then, in January of 2018, Pruitt suddenly and unlawfully withdrew the policy in a four-page memo issued without notice or public comment and without considering the damage to Americans’ health and the environment.

Under Pruitt’s loophole, thousands of industrial facilities across the country could be eligible to operate with weaker air pollution controls – or even with no air pollution controls at all. [An EDF report](#) found at least 18 major facilities in the Houston area alone that are eligible to use the loophole, potentially resulting in hundreds of thousands of pounds of additional health-harming pollution.

Environmental Defense Fund joined 10 other environmental, environmental justice, and public health organizations – Earthjustice, California Communities Against Toxics, Downwinders at Risk, Environmental Integrity Project, Hoosiers Environmental Council, Louisiana Bucket Brigade, Natural Resources Defense Council, Ohio Citizen Action, Sierra Club, and Texas Environmental Justice Advocacy Series – to file a lawsuit. The state of California is also challenging the loophole.

The case will be argued before a three-judge panel of the D.C. Circuit this morning, shortly after 9:30 a.m. Judges Rogers, Wilkins and Silberman will hear the case in courtroom 31.

###

Environmental Defense Fund (edf.org), a leading international nonprofit organization, creates transformational solutions to the most serious environmental problems. EDF links science, economics, law and innovative private-sector partnerships. Connect with us on [EDF Voices](#), [Twitter](#) and [Facebook](#).

Green Car Reports

EPA panel questions health effects of air pollution

https://www.greencarreports.com/news/1122362_epa-panel-says-air-pollution-not-harmful

Eric Evarts

Posted: April 1, 2019

It isn't just global warming emissions that the EPA plans to deregulate.

At a meeting last Thursday, a key air quality standards board at the agency cast doubt on longstanding findings that particulate matter—the microscopic particles spewing from diesel tailpipes—can cause health problems leading to premature deaths.

In the absence of several key science panels eliminated by EPA administrator Andrew Wheeler last year, decisions regarding air pollution have been left up to the Agency's much smaller, seven-member Clean Air Scientific Advisory Committee.

Members of that committee met Thursday to review draft recommendations that would

dramatically limit what studies are used to determine safe limits on air pollution, and several members [cast doubt on the conclusion that particulate pollution leads to ill-health effects](#) that can reduce life expectancy, according to an NPR report.

Just as with those who would sow doubt about global warming, the question hinges on what constitutes scientific certainty.

Most scientists would prefer to rely on binary, double-blind studies to determine cause and effect. In many cases, however, scientists who study environmental health effects don't have that luxury. It's not possible to have the same person live their life once in a polluted environment and once in a clean one—at least not that's ever been demonstrated. So, these scientists have to look at more generalized trends toward health outcomes in different population groups that could have multiple causes. They follow correlation, rather than strict causality.

Still, the correlation of high amounts of particulate matter from vehicle exhaust (and powerplant and factory smoke) and diseases such as asthma, is well established by a wide range of studies over many decades. These are the studies that the new EPA policy, decided by a single member board, would eliminate from consideration.

Chairman Tony Cox of the Clean Air Scientific Advisory Committee said, "If we don't know that X causes Y, then we should say we don't know." He said he was "actually appalled" at how little of what he considered evidence backs EPA air quality standards. "Members [of the Committee] have varying opinions on the adequacy of the evidence supporting the EPA's conclusion that there is a causal relationship between PM exposure and mortality," he said.

In the past, such decisions would be vetted by larger committees with more focused expertise on certain environmental problems. Particulates had their own 20-member committee, the Particulate Matter Review Panel. It is one of several more focused committees that Wheeler eliminated in October.

Biofuel/Fuel

The Daily Caller

Opinion: EPA Rule Changes Are Enough to Upset Both Big Corn and Big Oil

<https://dailycaller.com/2019/03/31/rogers-epa-corn-oil/>

Norman Rogers

Posted: 12:00 PM, March 31, 2019

It is not every day that the Environmental Protection Agency decides to institute policies beneficial to both America's farmers and refiners. In fact, a workable solution that helps both sides went unfound for a decade and many believed that it would remain that way. Yet, just as the Trump administration proved critics wrong by hosting a summit with North Korea and by passing one of the largest tax relief packages in American history, it has done so again by improving the lives of thousands of farmers and blue-collar industrial workers.

On March 12, the EPA [announced](#) a common sense rule that will increase competition by

restoring market forces — unapologetically moving the conservative agenda forward.

The first prong of the EPA's rule — loosening arbitrary government restrictions on renewable fuel standards — has been met with overwhelming [approval](#) from farmers, ethanol industry insiders and energy professionals. The change dispenses with unnecessary red tape restricting the ethanol industry from producing fuel containing 15 percent ethanol (E15) during the summer months. The decision to allow for the year-round sale of E15 was the right thing to do for the ethanol industry, which was previously hamstrung by government regulation. Unshackling the sector not only fosters increased competition, but it also provides a much-needed bonus to American corn farmers throughout rural America.

The second prong of the EPA's plan clamped down on rampant biofuel credit speculation — a change that lobbyists for the ethanol industry opposed. Special interests can decry this change all they want, but the truth of the matter is that the biofuel credits, known as renewable identification numbers (RINs), created a captive marketplace that was just as egregious, abusive, and at odds with the free market as the red tape on E15 sales.

Refiners that can't create renewable fuel gallons as obligated by the Renewable Fuel Standard can purchase surplus RINs from third parties, initially issued to the big oil firms who created more renewable fuel than needed but who often [sell them to Wall Street](#) for use in an unregulated, non-transparent speculative trading marketplace, and remain in compliance with the law.

Unfortunately, almost every refinery in America fits into this camp as they do not blend fuel. Biofuel has a limited shelf life and should be mixed onsite — by the people that own the gas pumps, which only big companies like BP and Shell have. As a result, everyone needs to buy RINs to comply with the law, so their cost has reached astronomical levels, [costing](#) double many refineries' payroll costs and [bringing](#) many to the brink of bankruptcy.

No one can with a straight face say that the Trump administration was wrong for taking a stand on this issue. In fact, the leading argument against acting in opposition to high RINs costs — that it will harm farmers by lowering demand for ethanol and renewable fuel — is not even backed up by the data.

Stopping RINs speculation does not reduce the number of renewable fuel gallons mandated by law — it merely reduces the price of the RFS compliance credits on small refineries — so to argue that the Trump administration's rule will hurt farmers or anyone other than the RINs sellers and speculators themselves is laughable on its face.

For the last two years, President Trump has been accused of being in the pockets of both Big Oil and [King Corn](#), but the EPA's changes should prove that isn't true. By doing the right thing for America's farming communities and blue-collar workers, Trump's EPA willingly and knowingly upset high-profile lobbyists on both sides for the sake of opening the free market for thousands of farmers and blue-collar workers in a truly historic way. It should be commended and encouraged to finalize the released proposal, which is entirely in line with the America first agenda, not the other way around.

Norman Rogers is a board member of the [CO2 Coalition](#) and a policy adviser for the [Heartland Institute](#), and is the author of [Dumb Energy: A Critique of Wind and Solar Energy](#). He holds a master of science in physics from the University of Hawaii and a bachelor of arts in physics

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The views and opinions expressed in this commentary are those of the author and do not reflect the official position of The Daily Caller.

E&E News

EPA allows producers to self-report violations

<https://www.eenews.net/energywire/stories/1060137635/>

Mike Soraghan

Posted: April 1, 2019

The Trump administration has launched its plan for letting oil and gas producers self-report air pollution violations to EPA, part of its effort to forge a more collaborative approach with industry on environmental enforcement.

Trump appointees at EPA have faced harsh criticism that they're going easy on polluters. But in their announcement Friday, they said the self-audit program will actually lead to cleaner air by giving companies an incentive to come forward.

"New owners of oil and gas facilities may be particularly well positioned to identify and address emission violations," said EPA enforcement chief Susan Bodine. "This program offers these new owner's incentives to ensure their newly-acquired facilities are in, or come into, compliance."

The proposal would allow companies that acquire new oil and gas operations to review newly purchased operations and report any problems to the agency. The companies would then have a flexible timeline to fix the problems. In exchange, EPA would waive all or most of the civil penalties that would normally apply.

The plan addresses emissions from storage tanks at well sites used to hold oil, petroleum liquids and wastewater. The tanks are one of the biggest sources of pollution from oil and gas operations, and EPA said regulators have found that a significant amount of violations and pollution from them.

Oil and gas companies complained bitterly to Trump appointees about an Obama-era enforcement initiative focused on the tanks ([*Energywire*](#), Jan. 17, 2018).

Volatile organic compounds such as benzene can leak from pressure-relief valves or from improperly secured hatches. In many cases, truck drivers open the tanks to the atmosphere when they measure the liquids that collect in tanks. Several workers have died from the effects of the toxic gases ([*Energywire*](#), May 30, 2017).

New owners will generally have nine months after acquiring the wells to tell EPA they want to participate. Companies that acquired wells in the past year can also participate. Also, the agency said it can reject applications for operations where violations have already been discovered.

Critics have suggested that allowing new owners the chance to self-report lets the previous owners off the hook for violations they've committed. But EPA said it reserves the right to go

after previous owners when circumstances warrant.

"A seller that did not discover, disclose, and correct violations when it operated a facility should not benefit from this program because the facility's new owner decides to undertake such actions," agency officials wrote in a fact sheet accompanying Friday's announcement.

EPA has had a "new owner" program for traditional manufacturing plants since 2008. The agency struggled with applying it to the oil and gas industry because a typical oil field can include hundreds of tanks and other facilities.

Trump appointees have undertaken a number of other actions to make environmental enforcement friendlier to regulated companies. They have changed national enforcement initiatives to "compliance" initiatives and plan to end initiatives focused on animal waste pollution and the oil and gas industry ([Energywire](#), Aug. 24, 2018).

EPA enforcement has dropped under Trump, continuing a trend begun during the Obama administration amid shrinking budgets. The 10,600 inspections performed by EPA last year were an 11 percent drop from fiscal 2017. Inspections have been trending downward since 2010, when there were twice as many ([Energywire](#), Feb. 11).

Recently released enforcement numbers show a 47 percent increase in the number of facilities involved in self-reporting violations. But the number of violations reported remained roughly the same as at the end of the Obama administration.

House Energy and Commerce Chairman Frank Pallone (D-N.J.) has called EPA enforcement under Trump "abysmal." Bodine has defended her tenure, saying it's not true that the agency has gone soft on polluters ([Greenwire](#), Feb. 26).

The agency's inspector general recently began an assessment of long-term enforcement trends ([E&E News PM](#), Nov. 6, 2018).

E&E News Reporter

In blow to coal, a reliable utility plans to go carbon-free

<https://www.eenews.net/climatewire/stories/1060137845/search?keyword=EPA>

Benjamin Storrow

Posted: April 1, 2019

An Idaho utility last week became the latest power company to announce plans to green its electricity.

Boise-based Idaho Power Co. said it will generate all its power from low-carbon sources by 2045. The company's plan calls for divesting from three coal plants, two of which are already slated for retirement, and contracting for 120 megawatts of new solar generation.

The move illustrates the rapidly evolving energy landscape in the West, where utilities have increasingly shut coal plants in favor of renewables.

And it adds a fresh wrinkle to a mounting debate over the future of coal in the region, as Rocky Mountain states move to rescue their coal plants and Pacific states try to green their power supply.

"There is always this tension in the West, which is dominated by regulated vertically integrated utilities, of what's happening for market reasons and what is happening for political reasons," said Travis Kavulla, a former Montana utility regulator who now works as a fellow at the R Street Institute, a right-of-center think tank.

"Idaho is a clarifying example," Kavulla said. "Idaho is not a state that has coercive policy drivers that would cause a regulated utility to divest economic coal resources. When Idaho Power does something relative to its resource portfolio, then maybe it's less conflicted than some of these other utilities in other states that are responding to the political currents."

Today, roughly half of Idaho Power's electricity comes from hydropower, meaning it is far less reliant on fossil fuels than its national counterparts. Coal makes up 17 percent of the company's power generation, down from 40 percent six years ago. The company's long-term plans call for accessing even more hydro through a new transmission line that would connect its system to dams in the Pacific Northwest. It also envisions relying on natural gas for several decades. Company executives said the plan leaves room for other low-carbon technologies like nuclear, geothermal and battery technologies.

There's also this: Renewables are increasingly the cheapest power on offer in the West. Under its new [solar deal](#) with Jackpot Holdings LLC, Idaho Power will pay \$21.75 per megawatt-hour for electricity. That's the lowest publicly reported solar contract in the United States, [according](#) to *PV Magazine*.

"What's happened in our marketplace is there's been a significant increase in the amount of renewable resources that have come online, which have driven market prices down, which then made these coal fleets higher-cost resources than some of the other energy that's available in the market today," Idaho Power CEO Darrel Anderson said in an interview.

Idaho has largely stayed out of the contentious energy debates that have consumed Oregon, Montana, Washington and Wyoming. When Idaho Power announced its plan, Gov. Brad Little, a Republican who has spoken out about a need to address climate change, issued a [statement](#) praising the proposal. The relative lack of controversy owes to the absence of coal plants in the state and its abundance of hydropower, analysts said.

[Jim Bridger plant](#)

But if Idaho Power's plan is not controversial at home, it has broader ramifications for the wider energy debate in the West.

Two of the coal plants that the company owns a stake in are already slated to close in the coming years. It's a different story when it comes to the third coal facility, the Jim Bridger power plant in southwestern Wyoming.

The 2,111-MW coal plant is one of the largest in the West. Idaho Power owns a third of the facility; PacifiCorp, a Portland, Ore.-based power company serving six Western states, owns the remaining stake and operates the plant.

Jim Bridger sits at the center of a mounting divide between Rocky Mountain and Pacific states. The plant has long shipped electricity across the West, but it also ranks among the region's largest carbon polluters. In 2017, its carbon emissions were 11.7 million metric tons, according to EPA data.

Today, Jim Bridger faces growing uncertainty. Oregon is one of the largest markets for the plant's electricity, but a 2016 state law requires a halt in coal-generated imports by 2025 ([Climatewire](#), March 3, 2016).

In a recent study, PacifiCorp listed Jim Bridger among the most costly of its coal plants. The study considered scenarios that call for the early retirement of some of Jim Bridger's units, though it did not examine potential impacts on reliability.

The plant has already seen its usage fall in recent years. It ran 76 percent of the time in 2014 but was used only 59 percent of the year in 2017 and 2018, according to U.S. Energy Information Administration figures.

The decrease is the result of PacifiCorp's participation in the Energy Imbalance Market, a collaboration of Western utilities that sees excess renewable energy shipped across the region, said Bob Gravely, a company spokesman.

"PacifiCorp has also made operational adjustments to coal units to have more ability to dial them back during portions of the day when lower-cost resources are available, such as solar overgeneration from California," Gravely said.

'Last person standing'

Idaho Power's announcement would not affect PacifiCorp's ongoing study of the economics of its coal fleet, Gravely said.

The news nevertheless increases the uncertainty surrounding Jim Bridger. Anderson, the Idaho Power CEO, said his company would work with PacifiCorp to coordinate an exit from the plant. Idaho Power currently expects to be out of the plant by the mid-2030s, a date that corresponds with its current retirement schedule.

Some have called for the utility to move even faster.

"Looking at the current wind and solar prices in the region, I wouldn't want to be the last person standing holding the large debt on a coal plant," said Joe Daniel, an analyst at the Union of Concerned Scientists. "It's going to be in the best interests of a utility's customers to procure wind and solar and rapidly detach any association of ownership to those coal plants."

Idaho Power is not the first Western utility to propose a significant greening of its system. Last year, Xcel Energy Inc. announced plans to close two Colorado coal units a decade early and replace their power with wind and solar ([Climatewire](#), Aug. 20, 2018). The company then followed up with a plan to make its eight-state system 100 percent carbon-free by 2045 ([Climatewire](#), Dec. 5, 2018).

Others could soon follow. Public Service Company of New Mexico has plans to unplug its coal fleet by 2031. New Mexico lawmakers recently passed a bill requiring half the state's power to come from renewables by 2030 and all its power to be carbon-free by 2045 ([Climatewire](#), March 13). Legislators in Nevada and Washington are considering similar measures, while Oregon lawmakers are debating a cap-and-trade bill.

In Idaho Power's case, Anderson said climate policy played little role in the company's move. More important, he said, were the requests of customers, who asked the power company about its plans to bring more clean energy online.

He framed the decision as a return to the company's roots and a continuation of its current trajectory. Idaho Power was 100 percent reliant on hydro until 1974, when it assumed a stake in Jim Bridger. The company set carbon reduction goals in 2009 and has already cut emissions from its sources by an average of 25 percent.

"What we're looking to do is what we believe is in the best interests of our customers and our other state stakeholders that we have," Anderson said. "As we've looked forward, we believe that the plan that we shared yesterday is in the best interests of all those folks. Part of it's economics, part of it's environmental. So there are a lot of considerations there."

Chemicals

ABC 13 Eyewitness News

EPA and TCEQ announce interactive map source to track cleanup at ITC facility

<https://abc13.com/epa-and-tceq-announce-interactive-map-source-to-track-itc-cleanup/5228122/>

Staff

Posted: 12:06am, April 1, 2019

The U.S. Environmental Protection Agency and the Texas Commission on Environmental Quality have announced a new [interactive source](#) to help keep the public up to date with current active responses at the ITC facility.

The companies made the announcement two days after two other companies around the facility were placed under shelter-in-place due to elevated levels of benzene.

The source allows you to track the Government's response to the cleanup and shows the locations for air monitoring and water collections, as well as the results of those tests.

There are also photos and explanations of how the agencies are responding.

For more details, click [here](#).

Environmental Working Group

Report: Despite Growing Contamination Crisis, PFAS Chemical Use in U.S. Swells

<https://www.ewg.org/release/report-despite-growing-contamination-crisis-pfas-chemical-use-us-swells>

Alex Formuzis

Posted: April 1, 2019

WASHINGTON – Between 2012 and 2016, at least 30 new fluorinated chemicals, commonly called PFAS, were produced in significant volumes, according to Environmental Protection Agency data analyzed by [Public Employees for Environmental Responsibility](#), or PEER.

PEER reviewed records from EPA's Chemical Data Reporting Database and found that there are now 118 PFAS chemicals produced in volumes in excess of 25,000 pounds per year. That's an increase of more than 55 percent since 2002, a year after the agency was alerted to severe PFAS contamination of drinking water in West Virginia and Ohio. In all, the EPA says that **602 different PFAS** chemicals were in active commercial use between 2006 and 2016.

"PEER's analysis shows that despite the growing PFAS crisis, the EPA's unchecked regulatory process is enabling a new set of fluorinated chemicals to be produced in significant quantity before they are proven to be safe," said David Andrews, Ph.D., senior scientist with EWG. "The first step in fighting any contamination crisis is to turn off the tap: Stop allowing the chemical industry to substitute versions of chemicals known to be hazardous with new formulations that haven't been adequately tested for safety and may be just as hazardous."

"By permitting more PFAS chemicals onto the market, the EPA and the chemical industry are just adding fuel to a fire that is burning out of control," Andrews added.

PFAS chemicals are a family of thousands of chemicals used to make water-, grease- and stain-repellent coatings for a vast array of consumer goods and industrial applications. PFAS chemicals are among the most persistent toxic compounds in existence, contaminating everything from drinking water, food, food packaging and personal care products, and it is found in the blood of virtually everyone on Earth, **including newborn babies**. Some have been linked to serious health hazards, including liver and kidney damage and cancer, harm to the immune system and developmental harm to fetuses, infants and children.

Researchers from EWG and Northeastern University have published **a map** of this expanding crisis and estimate that PFAS chemicals likely contaminate the **drinking water serving roughly 110 million Americans**.

Recently, PFAS contamination has raised alarms among **a bipartisan group of lawmakers in Congress**. EWG is pushing policymakers in Washington to make PFAS cleanup a top public health priority and has put forth **a multi-point plan to help**, which includes calling on EPA to use its authority and stop approving any new PFAS chemicals.

###

The Environmental Working Group is a nonprofit, non-partisan organization that empowers people to live healthier lives in a healthier environment. Through research, advocacy and unique education tools, EWG drives consumer choice and civic action.

Coastal Review Online

EPA to OK For Use 100 Acres of Navassa Site

<https://www.coastalreview.org/2019/04/epa-to-ok-for-use-100-acres-of-navassa-site/>

Trista Talton

Posted: April 1, 2019

Erik Spalvins, the EPA's remedial project manager for the former Kerr-McGee Chemical Corp. site, said Tuesday it will be up to Navassa officials to restrict, if they choose, through zoning the types of development permissible on 100 acres of the former wood-treatment plant site.

Tests confirm that those 100 acres of the 250-acre site are free of contamination. The EPA will place land-use restrictions on other areas of the site, including 50 acres with the highest contamination of creosote – the former processing and pond area.

Another 50 acres where treated wood was stored before it was shipped via rail offsite is lightly contaminated.

Spalvins said the 100 acres contaminated with creosote will be restricted from residential use.

Tests are ongoing in a marsh that spans 30 to 40 acres on the southern portion of the property, Spalvins said.

“We’re trying to get as much of this back into use as quickly as we can,” he said.

A record of decision will be released “as soon as possible,” he said, possibly before the end of September.

“I thought we would have done it three or four years ago, frankly, and I’m sorry that we haven’t,” Spalvins said.

He, officials with the North Carolina Department of Environmental Quality and those with the Multistate Trust hosted Tuesday what was originally supposed to be a quarterly meeting in the Brunswick County town. The meeting was initially scheduled for Feb. 26, but was pushed back as a result of delays caused by the 35-day government shutdown that ended Jan. 25.

Groundwater in nearly 60 monitoring wells drilled in and around the site will continued to be sampled every six months, said Richard Elliott, the Multistate Environmental Response Trust project manager of the Superfund site.

Tests continue to show that a plume of creosote in the groundwater remains in the same area since the plant closed more than 40 years ago.

“It’s not getting bigger,” Elliott said. “It’s not getting smaller. It’s not doing anything. It’s pretty much staying in place.”

Creosote has been found anywhere from 10 feet below the surface to as deep as 90 feet below the surface on the site, where the wood-treatment plant was operated under various companies from 1936 through 1974.

The property was added to the National Priorities List of federal Superfund sites in 2010 because of the contamination in the groundwater, soil and sediment.

Elliott explained that the creosote plume had not intersected with nearby Sturgeon Creek because the contamination is below the creek.

“The creosote goes down,” he said. “It’s heavier than water. It’s sinking and it’s not moving very fast.”

Samples taken within about 3½ acres of the 35-acre southern marsh area of the property indicate higher than allowable toxicity. Officials will continue to sample those areas of the marsh, Elliott said.

“The real question is, are those really a risk to the ecosystem?” he said. “The problem is that an ecosystem in a marsh is very, very sensitive. When you’re getting down to small areas you have to be real careful.”

Elliott said a finalized human health risk assessment, or HHRA, is nearly complete and likely to be submitted in April.

The results of the HHRA indicate the soils in the treated and untreated wood storage areas, the eastern upland area, and the southern marsh do not pose an unacceptable risk to human health.

The risk is, however, unacceptable for soils in the pond and process areas as well as where the groundwater contamination is located.

Elliott said that restrictions for land use will be included in property deeds as well as warnings about digging the land and what to do if creosote is discovered.

Plans this year include initiating a remedial design for the Superfund site, completing the feasibility study on the pond and process area, and conducting plume further studies of the plume.

“We’re going to start marketing the site,” Elliott said. “We’ve had a fair amount of interest. Right now, it’s zoned for industrial use. We need to work with the town to properly zone it.”

Anjie Ackerman, planning specialist with DEQ’s Division of Mitigation Service’s Watershed Planning & Property Protection section, said that, so far, 26 proposals for how the land should be used had been submitted for consideration.

Not all 26 of the ideas will be recommended, she said.

“We can take project ideas now,” Ackerman said. “We can take projects this summer. Until the money is gone, we will take project ideas.”

Funding decisions will be made after the public has had the opportunity to comment.

Ackerman said a draft restoration plan will be released in the coming weeks. The release of the draft will be followed by a 45-day public comment period.

Ackerman said the targeted timeframe for the public comment is June or July.

The next EPA-hosted meeting on the Superfund site is set for June 25.

Reuters

U.S. investigators to begin hunt for cause of Texas petrochemical disaster

<https://www.reuters.com/article/texas-energy-itc-probe/u-s-investigators-to-begin-hunt-for-cause-of-texas-petrochemical-disaster-idUSL1N21J01W>

Collin Eaton, Erwin Seba

Posted: 3:00pm, April 1, 2019

HOUSTON, April 1 (Reuters) - U.S. investigators hope this week for the first time to enter the site of a massive fuel fire and chemical spill outside Houston to begin the hunt for a cause and

to determine whether the operator followed safety regulations.

The blaze, at Mitsui & Co's Intercontinental Terminals Co (ITC) storage facility in Deer Park, Texas, began March 17 and released toxic chemicals into the air and nearby waterways. Shipping along the largest oil port in the United States remained disrupted on Monday, as did operations at two nearby refineries.

Fumes from benzene-containing fuel and fear of another fire have prevented investigators from going into the tank farm's "hot zone," officials said Monday. Three tanks holding oils remain to be emptied this week, and responders continue to sop up fuels on the tank farm grounds.

Investigators from the U.S. Chemical Safety Board (CSB) and Environmental Protection Agency, as well as state and local authorities, plan to enter the site once it is safe.

Access to the site, along the Houston Ship Channel, will help determine what happened and how a fire at one tank holding tens of thousands of barrels of naphtha spread quickly to 10 other giant tanks.

"The escalation of the event, looking at how the fire spread from a single tank to others in the tank battery, is certainly something we're interested in," said CSB lead investigator Mark Wingard, who arrived in Houston last week.

Before CSB investigators enter the site, possibly later this week, they will focus on interviewing ITC personnel and witnesses of the fire, and collecting documentation on the facility and its tanks. The CSB's investigation will also examine the "outside impacts" of the fires, Wingard said.

"There's huge public interest in this case," he said. "People in this community want to know what happened and what they were exposed to."

Access also could provide officials with information critical to state and local lawsuits accusing the company of improperly releasing tons of volatile organic compounds into the surrounding air and water.

"We need to get to what was the root cause of this event and then begin to understand any aspect of negligence or obstruction that led to the event," Harris County Commissioner Adrián García said in an interview.

The county last week filed a lawsuit against ITC seeking to recoup the costs of emergency responders and healthcare clinics set up in response to pollution from the fire. The county has not yet estimated the cost, which Garcia said is "going to be very significant."

An ITC spokeswoman declined to comment, citing pending litigation. In the past, a company official said ITC responded immediately to the fire and had no lack of resources to put out the fire.

Asked how long it would take for investigators to get onto the grounds, ITC Senior Vice President Brent Weber said he hoped it would be days not weeks. "They have been on the site," Weber said on Monday. "They're staying out of the hot zone right now."

Fumes and clean-up efforts continued to affect shipping for a third week. Twenty-two cargo vessels were able to transit the area near the ITC tank farm on Sunday, the Coast Guard said, between 40 percent and 50 percent of normal.

Another 64 were in a queue waiting to pass on Monday. In total, 118 ships were anchored outside the port, said U.S. Coast Guard Chief Petty Officer Derby Flory.

In addition to the state and county lawsuits, seven members of a Houston family have filed suit, claiming injuries from air pollution caused by the fire. Their lawsuit, which seeks \$1 million in damages, alleges ITC failed to prevent the fire and did not adequately warn residents of the dangers once it began.

The seven were exposed to toluene, xylene, naphtha and benzene “causing them severe injuries and damages,” according to the lawsuit.

“The warnings were too little, too late,” said Benny Agosto Jr., who represents the family and whose firm is among at least four working to bring cases against the company. (Reporting by Collin Eaton in Houston and Erwin Seba in Pasadena, Texas; editing by Gary McWilliams and Steve Orlofsky)

State regulations

GoErie.com

States, experts say EPA role on chemicals crucial

<https://www.goerie.com/news/20190401/states-experts-say-epa-role-on-chemicals-crucial>

Jenny Wagner & Kyle Bagenstose

Posted: 5:00am, April 1, 2019

States and legal experts say EPA regulations on PFAS chemicals are crucial to protect public health and compel the cleanup of pollution. That’s particularly the case where the Department of Defense is the polluter, attorneys said.

Even as states across the country work to address toxic per- and polyfluorinated substances (PFAS) by creating their own drinking water protections, legal experts and regulators say the U.S. Environmental Protection Agency plays a crucial role. The dynamic is particularly important where the military is the polluter, since the EPA also holds federal authority.

“Failure to address PFAS at a national level will really put public health at risk,” said Lisa Daniels, director of the Pennsylvania Department of Environmental Protection’s Bureau of Safe Drinking Water, at a public meeting last year. “EPA must take a leadership role.”

In February, EPA Administrator Andrew Wheeler [visited Philadelphia](#) to announce a [PFAS Action Plan](#), which included an “intention” to set a federal drinking water standard for PFOS and PFOA. Wheeler also revealed a proposal to declare the chemicals hazardous substances under the federal Superfund law, and touted a scheduled release of groundwater cleanup recommendations.

But the plan received a lukewarm reception from several states, which felt it lacked hard commitments or deadlines. Immediately following the Feb. 14 announcement, Pennsylvania became the latest state to say it would [set its own standards](#), with a spokesman declaring the state “cannot wait” for the EPA.

Several attorneys said listing PFAS as hazardous substances under Superfund, the nation’s primary law governing areas of major chemical contamination, would help most in pursuing cleanup actions.

“We have sued under (Superfund). We believe it’s a hazardous substance, but you don’t see it on the list,” attorney Alan Knauf said of his efforts in representing Newburgh, New York, in a lawsuit against the military over clean drinking water. “If it were put on the federal list, that would tremendously help us.”

Heather Babb, a Department of Defense spokeswoman, said the department also supports federal regulation.

“DOD supports EPA establishing regulatory standards and a consistent cleanup approach for PFOS/PFOA based on (Superfund),” Babb wrote in an email. “We want a standard risk-based cleanup approach that is based on science and applies to everyone.”

Some attorneys say they think the EPA already has authorities it could use more aggressively.

Tim Bergère, an environmental attorney with Philadelphia’s [Montgomery McCracken Walker & Rhoads](#), pointed out that the EPA previously used an “imminent and substantial” endangerment clause under the Safe Drinking Water Act to compel the military to act on PFAS at the Naval Air Warfare Center Warminster and Horsham Air Guard Station. The EPA has issued eight such orders for PFAS nationwide.

Bergère added that many states have laws that are more stringent than federal standards and aren’t limited by sovereign immunity, such as a Clean Streams Law in Pennsylvania that he said could be used to force the cleanup of PFAS around the bases in Bucks and Montgomery counties.

“The Navy’s sovereign immunity ... does not extend to discharges once they move off the site,” Bergère said.

Other attorneys said states can generally use powers delegated by the EPA to force actions by polluters, including through the issuance of water discharge permits under the federal Clean Water Act and the oversight of hazardous waste removal.

“Since the feds are not doing anything, the states have the authority and, we think, frankly, the obligation to step into the vacuum,” said Erik Olson, a senior director at the [Natural Resources Defense Council](#).

But recent Department of Defense actions to challenge state regulations underscore the pitfalls of

states taking the lead. In New Mexico, regulators sought to force the Air Force to clean up PFAS using a federally delegated hazardous waste authority. The Air Force responded by arguing in court that the state incorrectly applied the law.

Adam Sowatzka, an attorney with the Atlanta-based firm [King & Spalding](#) and a former EPA lawyer, said federal regulations are needed to ensure a strong legal case. Without such standards, even the EPA has to go to great lengths to make an effective argument while using emergency powers, he said.

“If you look at what EPA has to do, and all the administrative hurdles, and the case it needs to develop to bring an imminent and substantial endangerment (order), it’s a very, very difficult task,” Sowatzka said.

A new state battleground could be opening soon, as the New Jersey Department of Environmental Protection is on track to institute drinking water standards of 13 parts per trillion (ppt) for PFOS and 14 ppt for PFOA within a year. Those levels would be the strictest in the nation, and a fraction of the EPA’s 70-ppt advisory for drinking water.

Under New Jersey law, the levels also would become groundwater standards, and spokesman Larry Hajna said his department believes the military would have to comply while cleaning up sites like [Joint Base McGuire-Dix-Lakehurst](#).

However, there are signs of potential issues. In 2018, the U.S. Air Force [commented](#) on a DEP standard for a chemical cousin, perfluorononanoic acid, or PFNA, questioning its legitimacy.

“Standards based on poor scientific methodologies are often the subject of litigation because they are arbitrary,” the Air Force wrote.

There is no evidence the Air Force acted on the warning, but PFOS and PFOA present much greater liabilities than PFNA, which was not a major ingredient in firefighting foams. New Jersey also recently implemented interim groundwater standards of 10 ppt for PFOS and PFOA, and a spokesperson said the state expects the Air Force to comply. An Air Force spokesperson said the agency is still reviewing the standard.

The crawl of cleanup

Environmental attorneys said there also is room for legal jousting as the military decides to what extent, and how quickly, it will clean PFAS from the environment. That’s because while the EPA typically has broad authority to drive cleanup at contaminated sites, federal law puts the Department of Defense in the driver’s seat at military bases.

“Fundamentally, EPA and DOD are part of the ‘unitary executive,’ meaning EPA can’t take DOD to court and so doesn’t have the same leverage as it would at a private site,” said Taly Jolish, a recently retired [Superfund attorney](#) for the EPA in California.

In several cases where states have created their own environmental standards, the military has said

it will consider the limits as “ARARs.” Short for Applicable or Relevant and Appropriate Requirements, the acronym refers to a process under the federal Superfund law that determines to what level a polluter must clean up a chemical in water or soil.

Several attorneys agreed that the EPA or state regulators typically have authority in selecting an ARAR level for an unregulated chemical at a contaminated site. While some experts said regulators still have to sign off on such decisions at military bases, those with experience in the area said disagreements get messy.

“It becomes basically a political knife fight between DOD and EPA,” Olson said.

Jolish also said such decisions are “very political determinations.”

Tensions between the EPA and military apparently already exist. On March 13, U.S. Sen. Tom Carper, D-Delaware, [authored a letter](#) in which he cited sources saying the military and other federal agencies were pressuring the EPA to relax draft groundwater cleanup recommendations from 70 ppt to 400 ppt. The numbers have not yet been released publicly, and Carper urged the EPA to resist the alleged pressure.

“Such levels would, among other consequences, subject fewer sites that were contaminated through the military’s use of PFOA/PFOS from having to be remediated in the first place,” Carper wrote.

Further complicating matters is that the EPA has even less authority to control how long it takes the military to make cleanup decisions, experts said. The issue is playing out at bases across the country, where the military has spent years studying the extent of the PFAS contamination but has done far less to actually remove the chemicals. Officials have commonly cited the need to do more studies before they reach the point of selecting an ARAR.

“I suspect the cause of delay at the federal level is the concern that the Department of Defense is going to have to spend hundreds of millions, and maybe even billions of dollars, responding to these PFOS sites,” said David Engel, an [environmental attorney](#) litigating PFAS in New York.

Maureen Sullivan, a deputy assistant secretary for the environment at the Department of Defense, suggested in an early [March congressional hearing](#) that the department is holding off on containing PFAS releases until it further studies the issue. She also gave a “back of the envelope” estimate of needing \$2 billion for PFAS cleanup.

“Right now, we’re trying to determine the extent of the presence in the groundwater around our bases, how far it is, where it’s flowing, so we can design the right system to contain it,” Sullivan said.

Babb, the DOD spokeswoman, said the department “has proactively addressed PFOS and PFOA and follows the federal cleanup law.”

“DOD’s priority is to quickly address PFOS and PFOA in drinking water from DOD activities,” she added.

The military also is pushing about \$60 million into [research](#) on methods to better detect, understand and filter PFAS chemicals, with many studies not due until 2021. Jennifer Field, an Oregon State University PFAS expert whose work has been funded by the military, said there are about 50 ongoing projects, many of them looking for novel and cost-effective ways of destroying PFAS.

“There are definitely some higher-energy processes that look promising, but the problem is practical aspects have to be worked out,” Field said. “I haven’t heard of the stunning breakthrough that’s going to revolutionize (cleanup). Not yet.”

But Engel thinks the military can already act more robustly with current technologies, citing its \$700 billion annual budget.

“Let’s say it’s a \$10 billion (liability). My response is, ‘So what?’ ” Engel said. “If the purpose of the Department of Defense is to defend the United States and the people living in it, you would think that a good thing for them to do would be to defend the people who are drinking water contaminated by these facilities.”

The Hill

To improve environmental protection, give states more skin in the game

<https://thehill.com/opinion/energy-environment/436353-to-improve-environmental-protection-give-states-more-skin-in-the>

Mark Miller

Posted: 7:00am, April 1, 2019

President Trump’s budget proposal for the coming fiscal year calls for a significant reduction in funding for the U.S. Army Corps of Engineers. In this respect, Trump is a lot like his predecessor — the Obama administration also sought cuts to the Corps’s bloated construction budgets.

It remains to be seen whether Trump will have more luck than Obama did in convincing Congress to reduce the Corps’s spending. But legislators could embrace an earlier change that would cut costs while helping to improve environmental protection: transferring a portion of the Corps’s expensive work to the states, as Congress intended when it revised the Clean Water Act in 1977. Congress revised the law to allow state officials to approve “dredge and fill” projects that previously required approval from the Corps.

After 40 years of mostly ignoring the provision, Congress should work with the states to follow through on that transfer of authority. Giving the states more “skin in the game” on these environmental projects would lead to greater accountability and responsiveness in decision-making, which ultimately would better serve the cause of environmental protection.

Under the Clean Water Act, a property owner generally must secure a dredge and fill permit — also known as a Section 404 permit — from the Corps before discharging any dredged or fill material into bodies of water under federal jurisdiction. That means a property owner must receive federal government approval to build or perform other development-related work if the

property includes what the Clean Water Act calls “waters of the United States.” Dredging might include clearing property, and filling might include what it takes to level real estate to build a home, a road or — along a body of water — a seawall.

The Environmental Protection Agency (EPA) and the Corps have broadly interpreted “waters of the United States” to include traditional waters such as tributaries, lakes, rivers, streams, creeks and wetlands, but also bodies of water such as prairie potholes, natural ponds, wet meadows and even ditches.

Bottom line, then, for most land owners is that the Clean Water Act requires that they ask the Corps for approval before they move forward with a project on their own property. If you stack that requirement on top of the state and local permits a landowner must obtain, you can see why building a home or putting property to productive use has become so expensive for the average American.

The 1977 amendments to the Clean Water Act included the congressional effort to reduce that regulatory burden by removing the Corps from the picture. Congress recognized that the states should have the primary right and responsibility over the development and use of land and water resources, and thus expressed its intention for states to implement Section 404. Transferring this work from the Corps to the states obviously would save the federal government money.

But giving the states greater authority in this area also would better serve the nation’s environmental interests. Local and state officials understand the impacts of development permits on their communities and, unlike distant federal officials, they must live with the consequences of permitting decisions. If a decision goes awry, locals can observe the results and more nimbly respond in such a way that preserves the environment while enabling managed growth.

The same cannot necessarily be said about the Corps. When its decisions go wrong, it can take decades to fix the resulting problems. We saw that firsthand when the levees failed in New Orleans during Hurricane Katrina, and Florida continues to live with the repercussions of poorly-made Corps decisions decades ago related to the Everglades watershed.

There’s a reason President Franklin Roosevelt’s Interior Secretary Harold Ickes lamented that “every little drop of water that falls is a potential flood to the ubiquitous Army Engineers, and they therefore assume it to be their duty to control its destiny from the cradle to the grave.”

That is not the constitutional role of the Corps, or any federal agency. Congress recognized as much when it set out to transfer authority from the Corps to the states for dredge and fill permitting. To date, only New Jersey and Michigan have accepted this invitation; Florida and Arizona are contemplating joining those two.

Congress should encourage more states to get in line. It would benefit the federal budget and the environment and restore a sense of accountability and responsiveness in government by pushing decision-making down to the state level.

Mark Miller is an attorney at Pacific Legal Foundation, which litigates nationwide to achieve court victories enforcing the Constitution’s guarantee of individual liberty.

Water

The Bellingham Herald

Have you noticed that Bellingham's drinking water tastes better?

<https://www.bellinghamherald.com/news/local/article228483814.html>

Lacey Young

Posted: 5:00am, April 1, 2019

A new water pretreatment process gives the City of Bellingham better control over the quality, taste and odor of its drinking water.

The process at the Whatcom Falls Water Treatment Plant, referred to as dissolved air floatation (DAF), is more effective at filtering out organic materials than the previous filtration method, [according to a city press release](#). Assistant Director of Operations for Bellingham Public Works Eric Johnston said the process also increases the safety of the water.

“The reason to install a pretreatment system is primarily to reduce the amount of chlorine we have to add to the system to disinfect it and keep it safe,” Johnston told The Herald. “Less chlorine means less harmful chemicals in the water.”

The first of its kind in Washington state, the project won regional recognition from the EPA in 2018, according to the release. The award recognizes six of the most innovative and effective drinking water projects in the northwest region.

As previously reported in The Herald, the [\\$15.6 million project in Whatcom Falls Park began in summer 2016](#). The new process started being used to treat water in September 2018 Steve Bradshaw, chief operator at the Water Treatment Plant, told The Herald.

Bellingham Public Works showed the DAF process to the public for the first time in earlier this month.

Bloomberg Environment

High Manganese Levels Prompt No-Drink Order for S.D. Capital

<https://news.bloombergenvironment.com/environment-and-energy/high-manganese-levels-prompt-no-drink-order-for-s-d-capital>

Christopher Brown

Posted: 10:54am, April 1, 2019

City's manganese levels are eight times the safe level for infants

EPA gathering data to decide whether to regulate manganese

State environmental officials in South Dakota are advising the 14,000 residents of the capital city of Pierre not to drink tap water as a result of high levels of manganese in the city's water supply.

Recent testing of the city's water has shown that naturally occurring manganese concentrations are eight times what the Environmental Protection Agency deems safe for infants up to six months old, and 2.5 times the safe level for adults and older children.

Manganese is an essential nutrient, but excessive exposure can affect the nervous system in people of all ages, leading to learning and behavioral problems for infants and children, and behavioral changes and problems with motor control in adults, according to the [city's advisory](#).

EPA hasn't established a national drinking water standard for manganese, but is in the process of collecting data to help it decide whether to do so, Lisa McClain-Vanderpool, an EPA spokeswoman, told Bloomberg Environment March 29.

Unregulated Contaminants

EPA's Fourth Unregulated Contaminant Monitoring Rule requires cities to sample for a [list of 15 contaminants](#) that are currently unregulated by the agency but which are candidates for formal regulation. Cities will also be required to make sampling data for the contaminants available to the public, and consider further action when concentrations exceed health-advisory levels.

The sampling period for the unregulated contaminant rule is 2018-2020. Early data suggests that under two percent of drinking water systems in the nation have excessive levels of manganese, McClain-Vanderpool said.

EPA's short-term health advisory levels are 1 milligram per liter for adults and children, and 0.3 milligrams per liter for infants up to 6 months of age. Recent testing has shown Pierre's level to be 2.5 milligrams per liter.

Switching Up

Residents of Pierre should drink water from the city's supply only after it has been further treated by an in-home water softener or reverse osmosis system, according to the March 27 drinking-water advisory from city officials. Untreated tap water is safe for outside use only, it said.

The statement also advised against boiling untreated tap water, a common way to render contaminated water safe for drinking but which doesn't reduce manganese levels.

The city's advisory applies only to residents whose water comes from the city's system, which pulls water from a shallow aquifer running along the Missouri River.

The advisory doesn't apply to those served by nearby systems, which draw water directly from the Missouri River, a statement from city officials said.

A city system that will rely entirely on water from the Missouri River is scheduled to come online in 2021.

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E&E News

Where EPA saw no data, Trout Unlimited crunched the numbers

<https://www.eenews.net/greenwire/stories/1060134013/search?keyword=EPA>

Ariel Wittenberg

Posted: April 1, 2019

A new analysis from Trout Unlimited shows the U.S. Geological Survey underestimates the number of streams nationwide that flow only following rain.

The fishing and conservation group says that for every mile of stream mapped in the National Hydrography Dataset, another 1.5 miles of ephemeral streams exist.

The analysis comes as the Trump administration is soliciting comments on its Waters of the U.S., or WOTUS, rule that would eliminate Clean Water Act protections for ephemeral streams, which flow only following rainfall.

Outdoors groups like Trout Unlimited fiercely oppose the proposal, arguing that ephemeral streams serve as critical habitat for fish species and contribute crucial supplies of cool, clean water to more habitat downstream.

The Trump administration has said it can't determine how many streams stand to lose federal protections under its WOTUS proposal. After first denying there were any data on the number of ephemeral streams nationwide, the administration now says that because the National Hydrography Dataset is incomplete, it is unusable.

Trout Unlimited, however, views the data set as an important tool to determining the impact of the rollback.

"It's the best available data; it's what we have to work with," Trout Unlimited mapping specialist Kurt Fesenmyersaid. "There are shortcomings, and we wanted to highlight potential areas the data misses."

The National Hydrography Dataset shows that 18 percent of streams nationwide are ephemeral, meaning they stand to lose protections under the Trump WOTUS proposal. But USGS only recently started differentiating between intermittent and ephemeral streams in the database, and the agency cautions that the data are incomplete.

To help find areas where rainfall would drain into channels and form ephemeral streams, Trout Unlimited overlaid the National Hydrography Dataset maps on elevation maps.

Fesenmyer's team consulted other studies of when and where ephemeral streams form. That

science showed that ephemeral streams initiate in steep areas where more than 2 acres of a watershed drain to a particular point. In flat areas, ephemeral streams initiate when roughly 24 acres of watershed drain to a particular area.

Studies have shown that ephemeral streams initiate in areas where there are 2 acres of upstream watershed in steep areas and up to 24 acres of upstream watersheds in flat areas.

So Trout Unlimited estimated that "unmapped" ephemeral streams existed in areas where more than 11 acres of watershed would be draining.

"Anywhere below that point, we expected would be a stream channel," Fesenmyer said.

Fesenmyer described this approach as a "conservative" one that will result in overestimating the number of ephemeral streams in flat places and underestimating them in wet landscapes.

The result is an interactive map on Trout Unlimited's [website](#) where users can click on a watershed and see how many stream miles are mapped, what percentage of those mapped are ephemeral and the number of unmapped ephemeral stream miles Trout Unlimited estimates exist for every mapped stream mile.

The group also put together some state-specific estimates. In Arizona, where 74 percent of the mapped 432,728 miles of streams are ephemeral, Trout Unlimited estimates an additional 0.6 miles of unmapped ephemeral streams exist.

All told, that would mean an estimated 84 percent of stream miles in Arizona are ephemeral and would not be protected by the WOTUS proposal, E&E News calculated.

While WOTUS is expected to have the biggest impact on states in the West, where arid climates mean more streams are dependent on precipitation, the Trout Unlimited mapping shows Northern and Eastern states will also be affected.

In Maine, for example, where the NHD maps 57,107 miles of streams, none of which are categorized as ephemeral, Trout Unlimited estimates that 1.6 miles of ephemeral streams exist for every mapped stream mile.

All told, that would mean an estimated 61 percent of Maine stream miles are ephemeral, E&E News calculated.

Fesenmyer is quick to caution that Trout Unlimited's estimates are by no means perfect and that whether individual streams flow only after precipitation is best determined on the ground. Instead, he calls his work "a foundation."

"There is going to be quite a bit of error associated with it, but it gives us a bit more of a ballpark than we had," he said.

Asked about Trout Unlimited's analysis and whether EPA had considered doing a similar examination of the National Hydrography Dataset, an EPA spokesman said the agency would review it if it were submitted to EPA and the Army Corps during the public comment period for WOTUS.

Trout Unlimited's approach to the National Hydrography Dataset is markedly different from the one taken by the Trump administration.

When they announced their WOTUS proposal in December, the agencies initially denied that any estimates existed for how many wetlands and waterways would be excluded from their rollback of Clean Water Act protections.

"If you see percentages of water features that are claimed to be in, or reductions, there really isn't the data to support those statistics," EPA Office of Water chief David Ross told reporters.

The agency changed its tune after E&E News published documents showing that EPA and Army Corps staff had, in fact, reviewed the NHD data a year before publishing the WOTUS rule ([Greenwire](#), Dec. 11, 2018).

Now, EPA and the Army Corps wrote in their economic analysis of WOTUS that while the National Hydrography Dataset is "the best national dataset" of waterways, it cannot be used because it "generally does not differentiate between streams with intermittent or ephemeral flow in much of the country."

Fesenmyer said his team at Trout Unlimited decided to look at the National Hydrography Dataset because they were unimpressed by EPA and Army Corps' jettisoning of the data.

"Their explanations weren't adequate," he said.

The Michigan Daily

Whitmer establishes PFAS regulation policy, developing water standards, Action Response Team

<https://www.michigandaily.com/section/government/whitmer-establishes-pfas-regulation-policy-developing-water-standards-action>

Catherine Nouhan

Posted: 9:18pm, March 31, 2019

On Tuesday, Gov. Gretchen Whitmer released a [statement](#) saying Michigan will establish polyfluoroalkyl substances (PFAS) drinking water standards this year. PFAS has been an issue for Michiganders and the Ann Arbor community over the past few years and has become increasingly concerning, especially after Ann Arbor reported an [increase](#) in PFAS levels since 2016.

PFAS are chemicals used in cookware and water retardant products. Some scientific studies have shown PFAS chemicals can have significant health consequences such as learning and growth impairments in children, weakened immune systems and increased risk of cancer. The EPA's decision against a PFAS limit in drinking water would mean PFAS chemicals would remain largely unregulated.

"All Michiganders deserve to know that we are prioritizing their health and are working every day to protect the water that is coming out of their taps," Whitmer said in the press release. "As a result, Michigan will begin the process to establish PFAS drinking water standards that protect public health and the environment."

Because the Trump administration continues to allow PFAS to be [unregulated](#) in the United States' water bodies, Whitmer determined moving forward independently of the federal government was a

necessary action.

“Michigan has long advocated that the federal government establish national standards to protect the nation's water from PFAS contamination, but we can no longer wait for the Trump Administration to act,” Whitmer’s press release read.

Whitmer hopes to be more proactive than the federal government by creating a PFAS [Action Response Team](#). By July 1, 2019, this response team, made up of scientists, should have set the maximum contaminant levels (MCLs) for Michigan.

Whitmer also provided a deadline of October 1 to create a plan to enforce the MCL.

“Additionally, I’m directing the Department for Environmental Quality to immediately file a Request for Rulemaking to establish enforceable MCLs for PFAS in our drinking water supplies. The proposed regulations will be completed on an accelerated schedule with input from stakeholders by no later than October 1, 2019,” Whitmer wrote in the press release. “These actions will move us a step closer towards finding real and permanent solutions to ensuring that all Michiganders know that they can trust their drinking water.”

Whitmer’s proposal to create the Michigan PFAS Action Response Team has garnered support from U.S. Rep. Debbie Dingell, D-Ann Arbor. Dingell once again called on the Environmental Protection Agency (EPA) to set a national maximum contaminant level for all PFAS compounds so there is one national standard for all water systems to ensure safe drinking water.

“PFAS contamination affects all corners of Michigan,” Dingell wrote in a press release. “Governor Whitmer is taking critical action to address PFAS contaminations and clean up our drinking water. Setting a maximum contaminant level in Michigan this year will make sure all residents know about contamination in a timely manner and we are able to take action to clean it up.”

LSA senior Ben Harshberger, who is studying environmental studies and evolutionary and ecology biology, is pleased by the action Governor Whitmer is taking for Michiganders’ health.

“Even though the Trump administration isn’t concerned over the water quality throughout the United States, it’s nice to know that we live in a state that is not only concerned about the well-being of its citizens but is also willing to take steps towards prioritizing our health by creating standards for our drinking water,” Harshberger said.

Dingell continued to reveal the scope of the issue nationally and discussed how Whitmer’s policy will benefit Michigan in an issue putting many states in disarray.

“Whitmer’s leadership is needed more than ever since the EPA refuses to act to set one national protective standard for all PFAS chemicals,” Dingell wrote in the press release. “PFAS is not just limited to Michigan or the Great Lakes region. Pennsylvania, North Carolina, Colorado, and Texas have been hit hard by contamination. And more than 100 military sites from coast to coast have contaminated drinking or groundwater. The time to act is now. If the Administration refuses,

Congress will.”

NRDC

Michigan Should Set Precedent-Setting PFAS Water Standards

<https://www.nrdc.org/experts/anna-reade/michigan-should-set-precedent-setting-pfas-water-standards>

Anna Reade & Erik Olson

Posted: April 1, 2019

Today the Natural Resources Defense Council filed an extensive [scientific report](#) making a detailed case for the Michigan Department of Environmental Quality (MDEQ) to establish strict drinking water standards for five chemicals within the PFAS class. We also requested that MDEQ issue a “treatment technique” standard, based upon best available water treatment technology, to clean up the entire PFAS class of chemicals from contaminated tap water.

The extensive scientific analysis included a review of the toxicological and epidemiological evidence demonstrating the threats to health from PFAS, and an engineering review of the best available technologies to test for and remove PFAS from drinking water (“[scientific report](#)”).

NRDC also is asking that the Michigan legislature and Congress work with the Governor to provide funding to help water systems pay for safe water. We also urge that action be taken to ensure that polluters responsible for threatening or contaminating water supplies pay for cleanup, and that affordability programs be adopted that will help low-income people and communities pay for their drinking water.

PFAS Contaminated Public Water Supplies and Sites in Michigan

What are PFAS?

As discussed in the scientific report, poly- and perfluoroalkyl substances (PFAS) are chemicals widely used in nonstick cookware, to grease-proof food packaging, and for stain and water-resistance on clothing, carpets, and furniture. They are also used in cosmetics and in “[aqueous film forming foam](#),” which is used, for example, at airports and military facilities in training exercises and to suppress fires.

There are [more than 4,700 PFAS](#) chemicals in the class that have been cleared for use. PFAS unfortunately tend to share **three problematic properties**:

- **PFAS are highly persistent “forever chemicals”** that don’t not break down easily and can accumulate in the bodies of people and food that we eat;
- **PFAS are highly mobile** and spread quickly in the environment and are found in our drinking water, air, food, and homes;
- **PFAS are highly toxic** and can be harmful at extremely low doses (in the low part per trillion levels).

Health Risks Posed by PFAS

As reviewed in the scientific report, PFAS have been linked to a wide range of serious illnesses, some of which can occur at very low levels of exposure. For example, a [massive study](#) of 69,000 people exposed to PFAS in their drinking water in the vicinity of a factory in West Virginia found that certain PFAS are likely linked to **cancer of the kidneys and testicles, thyroid disease, pregnancy-related hypertension, high cholesterol that can lead to heart disease, and the autoimmune disease ulcerative colitis**. Other studies reviewed in the scientific report have confirmed many of these findings and have shown that PFAS are also linked to **lower fertility in women; harm to developing fetuses, infants and children; liver disease; and weakened immune systems**.

Widening PFAS Crisis: A National Threat Hits Michigan Hard

Just two members of this class of toxic chemicals, PFOA and PFOS, are present in the tap water of at least 6 million Americans at levels in excess of EPA's weak and unenforceable 'health advisory' for those chemicals, according to an [analysis](#) led by Harvard researchers. This analysis, based on limited sampling required by the EPA 4 years ago, found PFAS contamination in the drinking water of 16.5 million people in 33 states. Based on the limited testing done to date, it appears likely that tens of millions of Americans are served tap water containing PFAS at levels as much as hundreds of times higher than what the [Centers for Disease Control and Prevention](#) (CDC) and [independent scientists](#) consider acceptable.

While the PFAS problem is national, Michigan has conducted its own additional monitoring, the most comprehensive in the country, which has found widespread contamination. [State testing](#) near industrial facilities, military bases, and landfills known to have used or disposed of PFAS-containing compounds has found multiple sites with PFAS contamination, sometimes exceeding EPA's unenforceable health advisories. However, these data likely understate the contamination problem. While MDEQ is investigating just over 40 contamination sites, the agency reportedly [has suggested](#) that statewide, far more sites could be contaminated with PFAS.

Widespread Contamination in Michigan's Public Water Supplies

MDEQ commendably has tested for certain PFAS in over 1,100 Michigan public water systems, and has [publicly reported](#) the results. The Michigan testing has found PFOA, PFOS and other PFAS **in more than 100 public water systems**. This [State testing](#) found PFAS in **the drinking water of over 1.4 million Michiganders in 2018, across the state**. As of February 26, 2019, at least 78 samples from public water systems tested positive for PFOA and PFOS, with levels as high as 1,520 ppt (compared to EPA's 70 ppt health advisory). **At least 162 samples from water systems tested positive for at least one PFAS**, with concentrations up to 1,828 ppt. This additional testing was not required by EPA. Importantly, reporting limits for PFAS testing by MDEQ are substantially lower than those used under [EPA's unregulated contaminant monitoring rule](#) that produced the data analyzed in the Harvard study noted above. This means that Michigan's testing reports lower levels of contamination than was picked up by the older EPA data. This is important because CDC and

other independent scientists have concluded that levels of many PFAS pose health risks at the low part per trillion level, sometimes well below EPA's reporting limits.

Our Request: Health-Protective Drinking Water Standards

In order to address the extraordinary health threat posed to citizens across the state from widespread contamination of drinking water with PFAS, NRDC is requesting that MDEQ issue Maximum Contaminant Level Goals (MCLGs) and enforceable Maximum Contaminant Levels (MCLs) for 5 PFAS for which there are substantial toxicological data. We further ask MDEQ to set an MCLG and a Treatment Technique for total PFAS.

MCLGs are non-enforceable thresholds set at a level at which no harmful health effects should occur, with an adequate margin of safety (i.e. completely protective of health). The report recommends that these MCLGs be set at zero. This recommendation is based upon health risks, including cancer and other effects observed in scientific studies, where there is no clear "safe" threshold of exposure, and where these contaminants cause effects at vanishingly low-levels. The report further suggests that MDEQ issue MCLs for five PFAS that are as close to the MCLGs of zeros as "feasible" based upon the best available treatment and detection technologies (4 of the 5 PFAS can be measured reliably down to 2 ppt, and GenX down to 5 ppt, all can be treated to below detection levels). Further, the report suggests that MDEQ establish a "treatment technique" for the sum of all PFAS, based upon reverse osmosis treatment, or a treatment that is equally as effective. This treatment technique is needed because there are thousands of PFAS cleared for use and evidence is mounting that the class collectively poses a threat to human health and the environment. If only a handful of PFAS are regulated, there will be swift regrettable substitution with other, similarly toxic PFAS - creating an ongoing problem where addressing one chemical at a time incentivizes the use of other toxic chemicals and we fail to establish effective safeguards to limit this growing class of dangerous chemicals.

Ensuring Funding for Cleanup, that Polluters Pay, and that Water is Affordable

Finally, we are calling upon the Michigan legislature to work closely with Governor Whitmer to ensure that funds are available to clean up the pollution and that low-income consumers can afford their water bills. The legislature should work with the Governor to enact legislation that will assist communities in paying to address their drinking water problems—from PFAS pollution, lead contamination, or other issues. The state also should ask Congress to enact such infrastructure legislation, but we cannot wait for Congressional action to move forward. Michiganders need safe water now, not years from now. Furthermore, those responsible for the PFAS or other pollution should be required to pay to clean up our water. The Attorney General has some authority to bring polluters to account for their PFAS pollution, and certain legal doctrines can be applied to hold polluters accountable to clean up, but it would be best if PFAS were included in the list of "hazardous substances" that are explicitly authorized to be addressed under Superfund. Moreover, the state legislature could enact legislation explicitly requiring polluters to pay for clean up and to remedy the harms they have caused. These actions should help make water more affordable, but ultimately water systems, localities and state authorities should adopt strong water affordability programs that ensure that low-income consumers can afford to pay their water bills.

Philly.com

New Jersey moves to enact tougher drinking water standards for PFAS

<https://www.philly.com/news/pfas-new-jersey-drinking-water-limit-pfoa-pfos-20190401.html>

Laura McCrystal & Justine McDaniel

Posted: April 1, 2019

New Jersey published a proposal Monday for a binding drinking water standard for two PFAS chemicals, moving to establish limits that are much more restrictive than current federal guidelines and could force at least 40 public systems to clean up their water.

For residents, it is a long-awaited response to a contamination crisis that extends beyond New Jersey's borders. Per- and polyfluoroalkyl substances, or PFAS, have been found in drinking water systems near military bases and manufacturing plants nationwide.

The DEP's proposal, released Monday morning in the state register, would create a drinking water limit of 14 parts per trillion (ppt) for PFOA and 13 ppt for PFOS, two types of the compounds. Maximum contaminant levels like those proposed Monday in New Jersey set a legally binding limit for the amount of a substance that is permitted in drinking water systems.

New Jersey contamination includes areas surrounding manufacturing facilities and Joint Base McGuire-Dix-Lakehurst. In Pennsylvania, towns in Bucks and Montgomery Counties [have drinking water supplies tainted by PFAS](#), which are linked to health problems including cancer.

As of December, 39 public water systems in New Jersey had detections of PFOA exceeding the proposed level, 11 of which were in "various stages of taking actions to reduce" the amount, according to the state's proposal released Monday. For PFOS, 19 systems exceeded the proposed level, four of which are already addressing it.

The standards were recommended by the state's Drinking Water Quality Institute in 2017. The DEP accepted them, meaning it would move forward with creating the standards -- but residents have waited for further action.

The process will still take months: The DEP will hold a public hearing next month and accept public comments until the end of May, and then must make a draft document before the new rules can be reviewed and adopted.

"We waited nine years for this day to finally happen and it is here. This is critical for protecting our drinking and groundwater," said Jeff Tittel, Director of the New Jersey Sierra Club. "Now the DEP needs to adopt these standards as soon as possible. The sooner we do, the quicker we can start removing toxic chemicals from our drinking water and cleaning up toxic sites."

In the last few years, dozens of public and private wells nationwide have been shut off and treated for high levels of PFAS. But the Environmental Protection Agency has not created a drinking water rule governing how much PFAS is safe and legal in public drinking water, instead making only a non-binding health advisory recommending 70 ppt.

Some experts say the EPA advisory is not protective enough of public health, and many residents in communities where drinking water has been cleaned up to that standard still worry about their health.

Several states with contamination have begun to develop their own limits, which would require the military, manufacturers, and other polluters to clean up drinking wells according to the state standards. The military currently handles cleanup in communities near bases — including in Pennsylvania and New Jersey — where drinking water is above the EPA health advisory, but the Pentagon has said it will follow any state standards created.

The EPA said in February [it would begin creating](#) a federal maximum contaminant level for PFAS, a process which will take years. Advocates and politicians are skeptical of the EPA's plan to address the contamination, saying it is not ambitious enough.

New Jersey officials took action against companies last week for PFAS contamination, filing [lawsuits over cleanup](#) against DuPont, 3M, and Chemours, a DuPont spinoff company. DuPont and Chemours used the chemicals at facilities in the state after buying them from 3M, which was the primary manufacturer of the chemicals. The state also issued an order for those three companies as well as a fourth, Solvay, to [pay for cleanup](#).

In September, New Jersey became the first state to create a binding standard for another type of perfluorinated compound, PFNA, setting a drinking water limit of 13 ppt. The state announced interim groundwater standards for PFOA and PFOS last month.

Pennsylvania officials have said they will launch their own process for setting maximum contaminant levels for PFOS and PFOA and will hire a toxicologist and other personnel to review research and conduct in-house testing. Neil Shader, a spokesperson for the Pennsylvania Department of Environmental Protection. Officials will host a meeting this month to update residents on their plans, which also include a statewide sampling plan.

Water Online

Water Recycling To Receive Federal Investment In New Action Plan

<https://www.wateronline.com/doc/water-recycling-to-receive-federal-investment-in-new-action-plan-0001>

Aerzen

Posted: April 1, 2019

The U.S. EPA has released details about a “Water Reuse Action Plan” meant to encourage water recycling through facilitated discussions between federal and state stakeholders and the treatment sector.

“The Nation’s water resources are the lifeblood of our communities, and the federal government has the responsibility to ensure all Americans have access to reliable sources of clean and safe water,” EPA’s assistant administrator for water, David Ross, said in a [news release](#) about the plan. “There is innovative work happening across the water sector to advance water reuse, and the EPA wants to accelerate that work through coordinated federal leadership.”

When it refers to “water reuse,” the EPA explained that it takes a fairly broad definition. Through the plan, it wants to encourage water recycling — the act of treating wastewater and

reusing it without discharging into natural bodies — for agriculture, groundwater replenishment, industrial processes, and in potable applications. It hopes to accomplish this by shepherding technological improvements, regulatory analysis, financial initiative expansion, the introduction of performance requirements, and wider availability of water use data.

Critically, the U.S. Department of the Interior (DOI) will participate in the program to address water supply and resiliency in the western United States.

“The Department of the Interior is excited about forging this partnership with EPA so that we can leverage each other’s success and move forward on one path,” DOI’s assistant secretary for water and science, Tim Petty, said in the release. “Communities across the country are facing water shortages, and it is the role of the federal government to ensure that all have reliable access to the water needed to protect human health and maintain our robust economy.”

Indeed, the EPA’s new water reuse plan seems to have buy-in and momentum from all levels of the federal government. Recently, the White House released a [comprehensive article](#) about the country’s water supply. Therein, the water reuse action plan received special attention.

“From recycling treated wastewater to finding new applications for water produced from oil and gas extraction, there is innovative work happening across the water sector and EPA’s Water Reuse Action Plan will be the first initiative of this magnitude that is coordinated across the water sector,” per the White House.

It’s still too early to tell what tangible results will come of the new plan. But clearly the advancements around wastewater recycling and the importance of this critical resource is now being acknowledged at the highest levels.

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